



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

**Special Court Monitoring Program Update #14  
Trial Chamber I - CDF Trial 26 November 2004**

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Summary

In its penultimate week of trial this session, the Prosecution continued calling witnesses testifying to events which occurred in Sierra Leone's southern province during 1997-8 [1]. The week began in closed session with the continued cross-examination of Witness TF2-017, followed on Tuesday by the continued cross-examination in open session of Witness TF2-008, who had previously fallen ill and hence been excused from testifying during last week's proceedings. Witness TF2-119, Witness TF2-030, Witness TF2-156 and TF2-088 each then testified in continued open sessions, bringing the total number of witnesses called thus far in the CDF trial to 33.

A large proportion of the witness testimony provided this week implicated the first accused, Samuel Hinga Norman, as having had knowledge of and authority over the actions of the Kamajors in Bo at this time. In particular, witnesses TF2-119 and TF2-088 gave detailed testimony implying that Hinga Norman was instrumental in either (i) the planning of the attacks or (ii) the reprimanding of junior officers for their actions against civilians, during this time.

The testimony given by witnesses this week precipitated particularly heightened displays of emotion, with each of Witness TF2-030 and Witness TF2-088 openly sobbing at various points when recounting the alleged atrocities committed by the Kamajors against members of their families. The bench responded sensitively, Judge Itoe adjourning the proceedings at various junctures to ensure that the witnesses were able to have adequate time to compose themselves before continuing to testify.

Witness profiles at a glance

*Witness TF2-119.* Witness TF2-119 is 39 years old and was born in the Tonkolili District. He currently resides at Bo Town and works as a police officer, a job he has held since 1990. He is married and has six children. The witness attended school for 12 years and speaks English, Temne and Krio. His testimony was given in Krio, with English translation.

*Witness TF2-030.* Witness TF2-030 is 36 years old and was born in Bo Town, where she currently resides. She is widowed and has three children. The witness is not currently working.

She attended school up until Form 3 (ninth grade) and speaks Krio, Temne and English. Her testimony was given in Krio, with English translation.

*Witness TF2-156.* Witness TF2-156 is 24 years old and was born in Bo Town. He is a “businessman” ? namely, he sells articles or “provisions” from a table. He is married and has one child. His testimony was given in Krio.

*Witness TF2-088.* Witness TF2-088 is 54 years old. He is married to two wives and has 11 children. He continued his formal education until Form 5 (eleventh grade) and holds a High Teacher’s Certificate in Secondary Education. He currently teaches at Pelewahun, Jaiama Bongor Chiefdom, Bo district and was living in Gumahun, Bo district in 1997-8. His testimony was given in Krio, with English translation.

#### Continued cross-examination of Witness TF2-008

Tuesday morning’s session began with the continued cross-examination of Witness TF2-008 by defense counsels for each of the second and third accused. In particular, counsels for each of the second and third accuseds focussed on the following issues:

#### *Role and nature of the War Council, Fofana’s role as director of the Peace Office*

Defense counsel for the second accused questioned the witness extensively on the role and nature of the War Council and continued to assert that the council had an authoritative role in the planning and implementation of the Kamajor attacks during the conflict in Sierra Leone. Reiterating testimony given under examination in chief the week before, Witness TF2-008 asserted, in response to several questions about the nature of the War Council proposed to him under cross-examination, that the primary role of the council was to identify strategies for, and make recommendations to, the National Coordinator (which, during 1997 and 1998, was Chief Hinga Norman).

Defense counsel for the second accused also asked the witness to further elaborate on the operations of the Peace Office and Moinina Fofana’s role as its Director, a position which he held from the time at which the Lome Peace Accord was signed. The witness agreed that, under the direction of Moinina Fofana, the mandate of the Peace Office was to acting as “a check” on the excesses and atrocities of the CDF and was able to do a lot to achieve the objectives of this mandate. This included assisting non-governmental organisations (NGOs) to run workshops in Bo “unmolested and unhindered” by fighting forces. In particular, the witness recalled that the Peace Office had worked closely with an NGO known as “Conciliation Resources” to achieve considerable peace within the entire southern province.

#### *Discrepancies in evidence and factions within the Kamajor society*

Counsel for the third accused focused more particularly on discrepancies between the witness’s oral testimony and his written statement to the Prosecution dated 28 November 2002 with regards to the establishment of the council itself. He also asserted that the War Council was instrumental in the planning of the Kamajor’s “Black December” operations [2]. Under cross-examination, the witness alleged that Allieu Kondewa was appointed a member of the War Council by the National Coordinator and by virtue of his position as High Priest, once again negating the argument that the council had concurrent and/or paramount authority to that of the third accused [3].

Under cross-examination by the Defense, the witness also gave further testimony with regards to the nature of the relationship between the CDF and ECOMOG. He testified that the purpose of the April 1998 meeting of the War Council was to discuss the secessionist activities of the

Kamajors in the eastern province, who had threatened to sever their ties with the CDF and secede to ECOMOG following the fall of Bo, Kenema and Freetown. He further testified that the National Coordinator concerned that this would lead to further splintering of the CDF and factionalisation amongst the Kamajor society [4]. This alleged evidence tends to suggest a clear threat existed of such splintering and factionalisation occurring between the militia groups fighting in Sierra Leone at that time.

Selected “crime base” testimony

Witness TF2-119, Witness TF2-030 and Witness TF2-156 each testified, *inter alia*, to alleged atrocities committed by the Kamajors in early 1998 as follows [5]:

Witness TF2-119 (Looting, physical violence and mental suffering, terrorizing the civilian population)

Witness TF2-119 gave detailed testimony regarding attacks upon his person by both the AFRC / RUF junta forces and the Kamajors. In relation to the former, the witness testified that, while on duty on 15 June 1997, he was captured and shot in the leg by Captain Abu Bakar Kamara, a senior junta commander, because he had attempted to prevent a supermarket from being looted by AFRC soldiers (who were acting on Kamara’s orders at the time).

The witness then testified to two attacks by Kamajor soldiers on his house in the Bo police barracks on 16 February 1998. During the first attack, the Kamajors raided his house for arms and ammunition and, finding none, took several of the witness’s valuables. During the second attack, a second group of Kamajors came to his house and demanded that he hand over his police particulars. This group told him that they were demanding these things from him because “the time of the police and soldiers was over” and because Hinga Norman had “placed [the Kamajors] under defense” and had said that, after the Kamajors had killed the policemen and soldiers “[Norman] will do everything to ensure [the Kamajors] are recommended to the government to become officers and to ensure [the Kamajors] get salaries” [6]. These Kamajors then asked the witness to give them three reasons why he should not be killed. The witness was able to think of two reasons, but could not give them a third, at which point one Kamajor shouted the code words “Allah Wacbah (sic)” and the Kamajors began hacking his body with machetes, knives and axes [7]. They cut his ears, face, head, left shoulder, right leg, left arm, right arm, right foot and back. They then left him, assuming he was dead [8]. The witness then dragged himself to a well outside his house, where he was able to scoop water into his mouth. As he continued to scoop water, the witness lost consciousness and fell into the well. He struggled to get out, but was unable to do so. After several hours, a friend found him and tried to assist him to get out, but this friend was captured by the Kamajors during his attempt. The witness was finally found by members of the International Committee of the Red Cross, who took him to Bo government hospital.

While in the hospital, the witness alleged that he and other patients were visited by Chief Hinga Norman, who explained to them that his (Norman’s) troops captured Tongofield, Kenema Town and now Bo and that they were further advancing for the city of Freetown. Norman is alleged to have further stated that he had seen the conditions of Bo hospital, but that “this was part of the sequence of war: either you live, or you die”, that the “bad elements of the country” were being wiped out and that the patients should “pray to God that this does not happen again”.

Under cross examination, rather than focussing on the two Kamajor attacks, counsel for the first accused focused a significant number of questions on the witness’s conduct while on duty on 15 June 1997, prior to his capture by AFRC forces. A large amount of the court’s time was spent determining what property was looted from the supermarket and how the witness had responded to this looting. Upon pursuing this argument, Judge Itoe noted that he “read a lot of futility” into

this line of questioning and cautioned counsel for the first accused to ensure such questioning was relevant. Judge Boutet cautioned further that “how many hours [the witness] spent in the store, whether he took this door or this door, how many bags of rice...All of this evidence was led to bring into the factual situation of concern of this court” yet he was struggling to see “how relevant this is to the position of the first accused.” As the line of questioning continued, Judge Boutet reiterated this caution, stating that the victim had “not come [to the Special Court] to testify about his powers of arrest and his powers as a police officer” but had come “to testify as a victim who has been the subject of brutality”, and, as such, Judge Boutet was “lost to see” why this line of questioning was being pursued because it appeared to have “absolutely no relevance per se to the charges”. Judge Thompson further added that “an unnecessary multiplication of the issues” was likely to arise from this continued line of cross examination.

Defense counsel for the first accused retorted that he did not want to “anticipate orally” what he was attempting to argue but that he “crave[d] just a little bit of patience” from the bench. It appeared that he was asserting the argument that, given his actions while on duty, the witness’s credibility should be questioned by the bench. He then continued to cross-examine the witness with regards to the state of mind of Captain Kamara. The witness agreed that Captain Kamara was vexed and that he had made threats to the witness’s life. Defense counsel for the first accused then put it to the witness that the scars the witness had shown the court under examination in chief were sustained on this occasion, and not at any other time. The witness denied that this was the case.

Defense counsel then continued to allege that he was “bluffing the court” about the valuables which had been stolen from him, that it was “a figment of [the witness’s] imagination” that the Kamajors had told him they were acting on Hinga Norma’s orders, that the violence done to the witness’s person on the night of 16 February 1998 “did not occur it was not done to him then” and that the incident of the witness falling into a well “is totally untrue ? it didn’t occur”. These allegations were made after the witness had reiterated all the statements he had made under examination in chief, and the witness responded to the allegations by vehemently denying them.

Defense counsel for the first accused subsequently asked the witness whether the Kamajor attacks on his person had been reported. The witness stated that he had officially entered the attack in the police diary at the police station and that he was also given an official medical report in relation to the injuries sustained during the incident with the Kamajors, known as a PF-10. The witness has also kept all his medical reports relating to each incident in a personal file at police headquarters in Bo.

Counsel for each of the second and third accuseds refrained from cross examining this witness.

#### *Witness TF2-030 (Unlawful killing)*

Witness TF2-030 testified to the alleged brutal murder by the Kamajors of her husband on 22 February 1998. The witness, her husband and their then two month old child were at their home in Kulanda Town when her husband was surrounded by 15 Kamajors in their kitchen. He ran from the house and was pursued by the Kamajors to a nearby swamp (about 10-15 yards from their house), where they hacked him with machetes. The witness heard the Kamajors yelling “Allah Wacbah (sic)” as they were striking her husband. Fifteen minutes later, the witness left her baby in the house and went to see her husband. When she found him, he said “Oh my wife, they have killed me” [9]. He then pleaded with his wife to return to the house and tend to their two month old child. The witness heard her husband calling her name until 3am the next day, when the calls ceased. At 6 am, the witness returned to the site where she had left him and found him dead. She saw six people (other than her husband) had been killed.

That day, she heard that the Kamajors left Bo and ECOMOG arrived.

Defense counsel appeared to focus its questions on the timing of the Kamajor attacks in February in Bo, alleging that, at the time the witness's husband was killed, junta forces were in charge of Bo Town. Counsel for the second and third accuseds alleged that it was not the Kamajors that killed her husband, but the juntas. Counsel for the third accused alleged in particular that Bo was fully and finally captured from the juntas on 24 February 1998. The witness responded by saying that she did not know what had happened on 17 February 1998, but that it was the Kamajors who had killed her husband on 22 February.

Counsel for the third accused further alleged that the CDF and ECOMOG were acting in collaboration, entering Bo Town together on the 24 February 1998, which the witness denied. He then further alluded to the tribal nature of the conflict, asking the witness to confirm that she was a Temne, which she did, and asking further whether she would agree that the CDF comprised primarily of Kapras and Gbethis, to which the witness replied "not Gbethis, no". While there are no charges relating to genocide under the indictment for this trial, it may be that counsel for the third accused was seeking to bring the tribal nature of the conflict to the fore to discredit the witness's testimony by reiterating certain political or tribal affiliations that may colour her statements.

*Witness TF2-156 (Looting, unlawful killing, physical violence and mental suffering)*

Witness TF2-156 testified to the looting of his property (namely clothes, shoes, kitchen utensils and wares he was selling in the market) and a subsequent attack made by the Kamajors on himself, his two brothers, one of his friends (named "Sourie") and another Temne man whom he didn't know while bathing outside his aunt's house in Bo Town in 1998. The witness alleged that the Kamajors killed all four of the other parties (including his two brothers) and severely wounded him with machetes. He revealed scars on his stomach, chest, neck, nose, lip (which was cut in three places) and right foot. The witness was discovered by ECOMOG officers the next day, who took photographs of the scene and inquired as to his role in the conflict. The witness responded by saying he was a civilian. He was subsequently taken to Bo government hospital by his friend. A group of Kamajors opened fire on the outside of the hospital during the witness's two month stay there, stating that "all policeman and juntas should be killed". The witness testified that several of the patients at Bo government hospital at that time were policemen.

The witness's brothers were buried while he was in hospital, and he went to visit the grave after he was discharged. The bodies were subsequently exhumed by members of the Special Court and the witness was present at the exhumation, although he did not see the bodies when they were completely removed from their graves. The bodies were subsequently given back to the witness's family (to his uncle, who "was a chief") and the witness identified these bodies as those of his brothers. The bodies were buried in Bo.

Under cross examination, counsel for the first accused sought to show that there was a demise of law and order in Bo at the time the Kamajors attacked the witness and that the Kamajors had never told the witness from whom they were taking orders. The witness agreed with counsel for the first accused in both instances. Defense counsels for the second and third accuseds focussed primarily on attempting to show that, at the time of the alleged Kamajor attack that the witness described, the Kamajors were not in control of Bo, but that vigilante youths had taken over the town and were fighting with the juntas, an argument which was rejected by the witness.

Command structure and operations of the Kamajors: testimony of Witness TF2-088

Witness TF2-088 gave detailed and highly emotional testimony with regards to attacks on civilians in Gumahun, Mando and Petewoma, each being towns in the Bo District. In particular, the witness testified to three incidences ? the first two which occurred in November 1997 and the third having occurred in April 1999.

The witness began his testimony by alleging that the Kamajors were “a faction created by Hinga Norman with the aim of saving us, but these Kamajors were not organised”. He then went on to describe in detail the murder of his son and two of his nephews at the Taia River, Gumahun, on the 29 November 1997. The witness’s brother was a Kamajor, and had asked him to ask his son and three nephews to fetch the witness’s gun from his farm, about a mile away from Gumahun.

The witness recalled how, at 5 am on 29 November 1997, he went to the court barri in Gumahun, with his other son. He was told by the Kamajor Chief of the Valunya District in Bo, Joseph Bundu, that his child and nephews were to be killed because they had not been conscripted into the Kamajor society and because “anyone who is not part of the Kamajor society is a rebel”. The witness stated that Battalion Commanders Allaji Hassan Sheriff, Sandifu Samboka (sic) and Battalion Commander Joseph Kulagbanda as well as Secretary to the Kamajors Gibril Mansaray, all attended the meeting at the court barri. The witness’s second son described to him how his brother and the witness’s three nephews were shot and thrown into the river. A third boy, also described as a “nephew” escaped, but was shot while running away.

Early the next day, the witness went to Brima Sheki’s compound at Mandu, allegedly the site of a second Kamajor base, to attempt to locate the fourth nephew. Upon arrival, he saw his nephew and his mother standing amongst a group of Kamajors and a number of civilians. Allaji Hassan Sheriff, Gibril Mansaray, Sandifu Samboka (sic) and Joseph Kulagbanda were there. According to the witness, his nephew’s mother, Jeneba, had been captured because she was being accused of being the “town mother” and for assisting “Smith Joseph (sic), the rebel king” [10]. Jeneba was shot by Philip Nboma, a Kamajor commander and subsequently beheaded by him. The witness’s nephew, who was naked at the time was then cut into two with a cutlass by the same Philip Nboma and was disembowled during the process. Gibril Mansaray then allegedly ordered the witness’s son and four other civilians to dig a grave for the boy. Two of these civilians also dragged the bodies away. Upon returning to Gumahun that day, the witness himself was captured and tortured by the Kamajors at the court barri, after admitting to saying that “the Kamajors were cannibals” to a commander named John Rainbow. The witness was forced to give one of the Kamajors, Commander James Nbandu, Le 41,000, which he claimed did not belong to the witness. He was tied with FM ropes and received repeated beatings from 13 Kamajor commanders.

Finally, the witness described how his second son was killed by Kamajors in Peetewoma village (sic) in the Bo District after being accused of stealing a chicken on 22 April 1999. According to the witness one of his former students, Bobor Arunah, shot his son, whose body was then disembowled by another junior Kamajor, Eddie Sorboi, under the command of “Chief Mular”, the Chief of Nyandehun and David Joseph, the camp commander at Nyandehun. Commanders Gibril Mansaray, James Bundu and Chief Mular returned the next day to collect the boy’s body, which was to be used as Kamajor ashes during initiation. The witness saw circulars posted at a Kamajor checkpoint ordering for the killing of his son. The circulars further stated that the ashes of his son were to be delivered to Chief Hinga Norman’s compound.

The witness then described how he had reported this final incident to Hassan Sheriff on 24 April 1999, who had responded by stating that “Chief Hinga Norman had told us not to kill anybody any longer” and sent ground commanders to investigate the incident. The witness subsequently reported the incidents to the first accused, Hinga Norman, on 6 and 7 October 2001. The witness then attended a meeting in December 2001 where Hinga Norman allegedly told the Kamajors that they would be punished for the acts that they had committed during the war but to the witness’s knowledge, none of the Kamajors were punished for their actions.

Under cross examination, counsel for the first accused focused primarily on the nature of the reports made by the witness to Commander Hassan Sheriff and Chief Hinga Norman. Defense counsel seemed somewhat preoccupied with determining whether the witness whether he had made any reports prior to 24 April 1999 and seemed to be further alleging that the witness should

have made a police report of the incident. He also alleged that the witness had some allegiance to the Kamajors and had wanted his son and nephews to recover the gun. The witness agreed that, as he had seen other civilians taking guns to the Kamajors, and that those civilians had not been killed, he did not see the harm at the time. The reporting of incidences and the accuracy of reports that were made appears to be an on-going theme in the Defense's cross-examination.

Counsel for the third accused focused instead on discrepancies between the witness's written statement and that of his oral testimony [11]. According to the witness's written statement, his son "was a Kamajor". The witness agreed under cross examination that the written statement he had given to the Prosecution on the 21 May 2003 was his statement and that the statement was read to him and he had understood it at the time of the interview. Under cross-examination, the witness stated that what he had meant to say was that his son "was *used as a Kamajor*". The witness's statement was tendered into evidence as Exhibit 35.

### Procedural and case management issues

#### *Witness protection: treatment of distressed witnesses*

There were a number of junctures during this week's testimony where the treatment of distressed witnesses came to the fore of the court's attention. Each of witness TF2-030 and Witness TF2-088 had to stop at various points during their testimony due to the fact that they had become distraught. The court has ensured that at least one member of the Victims and Witness Protection Unit is present during proceedings at all times, and as such, was able to respond sensitively and quickly to these incidences. Judge Itoe was particularly concerned for the witnesses' welfare, and adjourned the proceedings at several junctures to ensure that the relevant witness had adequate time to recover.

#### *"Equality of arms" issues: defense counsel's lack of resources (photocopier)*

On Friday, while dealing with motions and matters of procedure, Judge Boutet noted that counsel for the third accused's request that the Defense be provided with a photocopier had not yet been tended to by the Registry. Judge Boutet therefore announced that the Chamber had ordered that the Registry to provide the Defense with a photocopier by no later than the end of next week. Judge Boutet further noted that "clearly in keeping with the notion of equality of arms", it was important that the Defense team be provided with such resources. The issue highlighted an on going discrepancy which, members of the Defense have at certain points claimed, exists between the resources provided to the Defense and to the Prosecution.

#### *Oral motion by counsel for the third accused*

Finally, on Friday, counsel for the third accused put forward an oral motion seeking the court's determination on the following issues:

- Whether investigators form part of the Defense team;
- If so, whether they should be able to access witness statements of witnesses intended to be called by the Prosecution; and
- If the answers to (A) and (B) are in the affirmative, whether investigators should be allowed to attend closed sessions?

Counsel for the third accused, who brought this motion pursuant to Rule 17(b) of the Statute and Section 75 of the Rules of Procedure, further argued that, on the question of equality of arms, statements of witnesses tendered to the Chamber by the Prosecution had made apparent that some of the prosecutors had also acted as investigators, and that such prosecutors were able to

remain in the courtroom during closed sessions. Defense counsel therefore argued that investigators for the defense should be afforded the same privilege.

The Presiding Judge stated that, as he thought the motion brought up some very interesting legal issues, the Defense should submit this motion in writing in order for the court to give it its due consideration.

1.) This week marks the penultimate full week of trial. The court will also sit on Monday and Tuesday the 6-7 December, 2004.

2.) According to paragraph 24(f) of the consolidated indictment: 'In an operation called "Black December", the CDF blocked all major highways and roads leading to and from major towns mainly in the southern and eastern Provinces. As a result of these actions, the CDF unlawfully killed an unknown number of civilians and captured enemy combatants.'

3.) See also *Special Court Monitoring Program Update No.12 dated 12 November 2004*.

4.) For example, the witness testified that one of ECOMOG's field commanders, General Khobe, visited Base Zero to discuss the final assault on the AFRC and RUF in Freetown and the Western Area (as well as Bo and Kenema). He alleged that as a result of this meeting, ECOMOG and CDF were working together to take Freetown and 7,000 Kamajors were sent to Freetown with the consent of Major Khobe. ECOMOG residing at Lungi and part of Hastings at that time. The witness seemed to be asserting that the groups were collaborating, but not acting as a joint operation or in concert. There appeared to be tacit respect for the operations of the other in both instances, as was the case with the CDF sending 7,000 troops to Freetown only after attaining the consent of Major Khobe. See also *Special Court Monitoring Program Update No.13 dated 19 November 2004*.

5.) According to paragraph 24(d) of the consolidated indictment:

'In or about January and February 1998, the Kamajors attacked and took control of the towns of Bo, Koribondo, and the surrounding areas. Thereafter, the practice of killing captured enemy combatants and suspected "Collaborators" continued and as a result, Kamajors unlawfully killed or inflicted serious bodily harm and serious physical suffering on an unknown number of civilians and enemy combatants. Also, as part of these attacks in and around Bo and Koribondo, Kamajors unlawfully destroyed and looted an unknown number of civilian owned and occupied houses, buildings and businesses.'

6.) These Kamajors then allegedly produced a notebook which, they said, they were using to take down all the particulars of the police officers they had killed for Hinga Norman. The witness added that the notebook contained the name, rank, force number, nature of duty and the division of each police officer.

7.) The witness stated that he knew this was a code, because as soon as the Kamajor said it, the other Kamajors began "chopping him".

8.) The witness then described how he crawled across the road to obtain some water from a nearby well which he subsequently fell into after losing consciousness. A friend of his, whom the witness said "God brought" then tried to remove him from the well, but was captured by Kamajors in the process. He was finally rescued by members of the International Committee of the Red Cross and taken to Bo government hospital where he alleged he was further attacked by the Kamajors, who variously captured five of the patients in his ward and attempted to kill him by shooting at him through the bars of the hospital window.

9.) At this point in her testimony, the witness became extremely upset and was sobbing. Judge Itoe gave the immediate direction that the members of the Victims and Witness Protection Unit present in court attend to the witness and that the witness be given adequate time to recover.

10.) A “rebel king” was stated by the witness as being “the rebel’s superior leader.”

11.) Counsel for the second accused did not cross examine this witness.



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This publication was originally produced pursuant to a project supported by the War Crimes Studies Center (WCSC), which was founded at the University of California, Berkeley in 2000. In 2014, the WCSC re-located to Stanford University and adopted a new name: the WSD Handa Center for Human Rights and International Justice. The Handa Center succeeds and carries on all the work of the WCSC, including all trial monitoring programs, as well as partnerships such as the Asian International Justice Initiative (AIJI).

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