



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

### **Special Court Monitoring Program Update #44 Trial Chamber 1 - CDF Trial Covering week ending June 17, 2005**

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This week the prosecution called two of its three expert witnesses who are slated to testify in the CDF case. One witness was called as a military specialist to testify about the organization of the CDF, including the effectiveness of its command structure. The second witness was called as an expert on child soldiers, but the testimony was heard entirely in closed session in order to protect the witness's identity [1]. Both witnesses were contested by the defence on the grounds that their testimony was irrelevant or outside the scope of the indictment.

The first witness, Colonel Richard Iron, was contacted by the Prosecution through the British Ministry of Defence in order to determine the extent to which the CDF was functioning as a military organization. This evidence was led to assist the court in understanding the context in which the CDF was operating. Colonel Iron's conclusions were contained in a written report which was entered into evidence. His live testimony did not focus on the individual responsibilities of the three accused individuals, but rather on the command structure of the CDF as a whole. In particular, he described a shift in the structure of the CDF following the AFRC coup in May of 1997, when it moved from a dispersed defensive group of traditional territorial hunting societies into an organized offensive force based in the village of Talia in southwestern Sierra Leone.

#### Testimony of Colonel Richard Iron, Military Expert

As a colonel in the British army, Richard Iron currently works for the North Atlantic Treaty Organization developing doctrine for land operations. A substantial amount of trial time was spent establishing his credentials in anticipation of defence attempts to question his credibility as a military expert. In their written submissions, the defence teams had challenged Iron's status as an expert given that he had spent a very short period of time in Sierra Leone gathering the information upon which he based his report [2]. Colonel Iron had been retained by the Office of the Prosecutor to provide expert testimony on all three cases at the Special Court, and he stated that he only spent approximately fourteen days on the CDF case while visiting the country.

#### Colonel Iron's research methodology

The witness described how his original intention was to examine witness statements and transcripts, but his methodology shifted when he realized this would not be sufficient. Statements tended to concern criminal acts, and he was interested in how the CDF operated as a military organization. To supplement his interviews with seven individuals in Sierra Leone, the witness visited Koribundu, Bo, and some of the minor battlefield sites, as well as villages and locations from which they were launched. In cross-examination, the defence attempted to demonstrate that Iron's conclusions were based upon determinations that had already been made by the Office of the Prosecutor, as the witness had only interviewed individuals whose names had been provided to him by the OTP. Furthermore, he did not independently verify the information contained in the witness statements that he analyzed.

Colonel Iron employed a methodology based on four questions: whether the CDF had a military hierarchy and structure, whether it exhibited the characteristics of a military organization, whether its strategic aims were transferred to tactical activity on the ground, and whether its command was effective. He used a three-element model to evaluate the command structure, focusing on decision-making, leadership, and control.

#### Analysis of CDF command structure

According to the witness, the CDF had a recognizable hierarchy and structure. First accused Sam Hinga Norman was the commander of the CDF, and he was surrounded by supporting staff officers. There were also a large number of hierarchically structured CDF units based in Talia. The witness stated that command was highly effective at strategic and operational levels, and decision-making at the high command levels was excellent. Command was less effective at a tactical level due to the inexperience and lack of training of many junior commanders. There were coordinated operations in the south and west of Sierra Leone near the CDF base in Talia, within reach of the jungle communication system. Communication was not particularly strong in the other parts of the country, however, as there were few radios, and communications were run by motorbike or on foot. As a result, there was little coordinated activity of the CDF in the north and east of the country.

#### Shift in CDF organization and objectives

According to the witness, the central strategic idea of the CDF was to defend its homelands from the RUF and junta forces. However, the objectives of the CDF evolved over time: before the coup it was organized on territorial grounds, on a chiefdom basis, and distributed across Sierra Leone. The organization began from a defensive posture and operations were confined to local areas. After the AFRC coup in May of 1997 the CDF developed a number of strategic problems. The chiefdom structure broke down as CDF forces were driven from many of their traditional areas, and a new structure began to emerge. A headquarters was established in the village of Talia, and for the first time there was a large centralized body of CDF fighters. By the end of 1997, the CDF could launch limited counter-attacks against junta forces to prepare for the ECOMOG intervention in February of 1998.

The decision to mass-recruit people into the CDF rather than through the chiefdom system enlarged the CDF and enabled it to create an offensive capability at Talia. In the period following the AFRC coup, the witness stated that there were two types of CDF forces: territorial forces were still operating in CDF-controlled areas, but now there was also an offensive force (or "counterattack force") based in Talia. The witness stated that there were reports of between five to ten thousand fighters at Talia, and thousands among the dispersed territorial forces were continuing to operate. The offensive force took part in the major attacks on Koribundu and Bo in late 1997 and early 1998.

#### Significant points for the prosecution's case and defence responses

The witness stated that his research focused on the Kamajors within the CDF, and particularly on the offensive capacities developed at Talia. He noted that troop morale was bolstered by the initiation process, in which fighters were told that they would be immunized against bullets. Iron testified that “top up” initiation ceremonies performed before battles helped generate a will to fight among the troops, and personal loyalty to Norman created troop cohesion.

The prosecution sought to establish that CDF commanders failed to prevent or punish criminal acts committed on the battlefield, which is an aspect of command responsibility. Colonel Iron testified that there was harsh discipline at some levels of the CDF: if a commander failed to obey direct orders, he could expect to be punished. However, the witness stated that many cases of wrongdoings were uninvestigated and unpunished, particularly at Base Zero, and this culture of negligence was transferred to the battlefield.

Cross-examination focused in part on the relationship between CDF and ECOMOG, the cease-fire monitoring force comprised of Nigerian soldiers, to attempt to shift responsibility from the three accused individuals. The witness stated that he knew there were command responsibility issues between the two forces, but he believed that CDF commanders resisted ECOMOG efforts to bring the CDF under ECOMOG control.

The defence further challenged Colonel Iron’s limited exposure to sources in formulating his position: Iron did not interview the Chairman or Vice Chairman of the CDF War Council, nor did he interview any individuals who were not suggested to him by the Office of the Prosecutor. The defence implied that the witness’s source material was restricted to what had already been covered by the prosecution, which could appear to compromise his independence.

#### Closed session testimony of alleged expert on child soldiers

According to written submissions by the prosecution, the second expert witness was employed by an international organization while in Sierra Leone between 1998 and 2004 [3]. The witness was called to give both direct evidence and expert opinions relating to the use of child soldiers during the conflict. The testimony was heard entirely in closed session due to witness protection issues, and public information about this witness is only available in the prosecution’s written submissions. According to these documents, the witness was expected to describe negotiations with CDF commanders for releasing child soldiers, the age determination process used during disarmament, figures relating to use of child soldiers during the conflict, the process of enlisting child soldiers used by the CDF, and the witness’s opinions regarding the motivation behind the use of child soldiers [4].

The defence objected that such testimony is irrelevant or beyond the scope of the indictment, and expert testimony was not required in this area, as the Chamber already had enough legal and factual information to rule on the use of child soldiers by the CDF [5]. The Chamber granted leave for the prosecution to call the witness and allowed testimony to proceed in closed session.

The Chamber heard no further testimony for the remainder of the week. The prosecution is anticipated to call one more expert witness next week before closing its case.

1.) *Decision on Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures*, 24 May 2005, paragraph 2(5).

2.) *Joint Defence Response to Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures*, 25 February 2005.

3.) *Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures Pursuant to Rules 69 and 73bis(E)*, 15 February 2005, paragraph 15.

4.) *Ibid.* at paragraph 21.

5.) *Joint Defence Response to Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures*, 25 February 2005, paragraphs 22-23.



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