



Case No. SCSL-2004-16-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA BAZZY KAMARA
SANTIGIE BORBOR KANU

TUESDAY, 4 OCTOBER 2005
9.25 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

Teresa Doherty, Presiding
Julia Sebutinde
Richard Lussick

For Chambers:

Mr Simon Meisenberg

For the Registry:

Ms Maureen Edmonds

For the Prosecution:

Ms Lesley Taylor
Ms Melissa Pack
Mr Jim Hodes
Ms Maja Dimitrova (Case Manager)
Ms Martine Durocher (intern)

For the Principal Defender:

Mr Ibrahim Foday Mansaray (legal
assistant)

For the accused Alex Tamba
Brima:

Mr Kojo Graham

For the accused Brima Bazzy
Kamara:

Mr Mohamed Pa-Momo Fofanah

For the accused Santigie Borbor
Kanau:

Mr Geert-Jan Alexander Knoops
Mr Ajibola E Manly-Spain

1 [AFRC04OCT05A-SGH]
2 Tuesday, 05 October 2005
3 [Open Session]
4 [The accused present]
09:08:43 5 [Upon commencing at 9.25 a.m.]
6 WITNESS: ZAINAB BANGURA [Continued]
7 PRESIDING JUDGE: Good morning. Unless there is some other
8 matter I will remind the witness of her oath and we will proceed
9 with cross-examination. Good morning, Mrs Bangura.
09:22:36 10 THE WITNESS: Good morning.
11 PRESIDING JUDGE: You recall that yesterday you took the
12 oath and swore to tell the truth. That promise is still binding
13 on you today and you are obliged to answer all questions
14 truthfully. Do you understand this?
09:22:55 15 THE WITNESS: Yes, please.
16 PRESIDING JUDGE: Thank you, Mrs Bangura.
17 THE WITNESS: Thank you.
18 PRESIDING JUDGE: Who is next counsel? Mr Graham.
19 MR GRAHAM: Good morning, Your Honours, I think Mr Fofanah
09:23:04 20 would cross-examine now.
21 PRESIDING JUDGE: Thank you, Mr Graham. Mr Fofana, please
22 proceed.
23 MR FOFANAH: Thank you, Your Honours.
24 CROSS-EXAMINED BY MR FOFANAH:
09:23:19 25 Q. Good morning, Mrs Bangura.
26 A. Good morning.
27 Q. Mrs Bangura, I am going to go through with you a number of
28 questions on the issue of forced marriage and then I will come to
29 the report. When did you first come by the concept of forced

1 marriage?

2 A. The first time we actually experienced it and started
3 working was after 1999. It came in between the report but it
4 wasn't -- it came in between our monthly reports before the
09:23:53 5 invasion of Freetown in 1999. But it wasn't like a common
6 phenomenon which came. But it was when Freetown was attacked in
7 1999 that some of the ladies who were taken away, actually we
8 started taking care of them, providing medical facilities and
9 others, that's when the phenomena actually hit us, that it was a
09:24:16 10 common practice.

11 Q. Did you know about the existence of this phenomena
12 generally, whether within or outside of Sierra Leone before 1999?

13 A. Not really.

14 Q. So up until some time in 1999 it was a strange phenomena to
09:24:37 15 you, forced marriage?

16 A. Well, yes, because it happened in law -- sorry, in war. So
17 I haven't read about war. I mean, when the war started we read a
18 little bit about Rwanda, because I'm part of the Women's Network.
19 So you hear about the problems in Rwanda, how women had suffered.
09:24:57 20 But it wasn't the issue of forced marriage. It was just about
21 the sexual abuse and gang raping and others was what was always
22 coming out.

23 Q. Now, from your expert knowledge, can you tell the Court
24 what you understand by the word "marriage"?

09:25:14 25 A. Marriage is a relationship, a legal binding relationship
26 between a husband and wife, you know. And obviously
27 traditionally you have to go through certain steps and certain
28 things have to be done. In traditional Sierra Leone, marriage
29 also brings family together because it's a relationship between

1 the families, the families are very much involved. So it takes
2 the whole family between the male and the female, that's what
3 brings marriage.

09:25:51 4 Q. Now will you agree with me if I say that marriage, whether
5 it is traditionally, generally or otherwise, is always the social
6 contract between a man and a woman?

7 A. It depends. It depends where you go. Because normally the
8 social contract takes place between the family before the man
9 comes in in traditional Sierra Leone. So sometimes you don't
09:26:10 10 even know who your husband is. But the contract is not only
11 between the man and the woman, it is also between the families as
12 well. So in addition to the man and woman, it is between the
13 family in traditional Sierra Leone where I come from.

14 Q. So which one comes first, is it the contract between the
09:26:27 15 man and the woman or the contract between the families
16 traditionally?

17 A. I mean from my understanding and definition of contracts,
18 it's an agreement where you have an offer and a consideration.
19 So that actually takes place when the ceremony takes place, and
09:26:40 20 that is the day of the marriage, the wedding. But the
21 understanding and the negotiations, like any contract, takes
22 place within a certain period of time. So it is not an event, it
23 is a process.

24 Q. But in any case, the man and the woman have to agree; not
09:27:00 25 so?

26 A. Consent is definitely required.

27 Q. Now, from your knowledge as an expert, as well as a rights
28 activist, do you consider consent by a child, if given, as a
29 valid form of consideration for marriage?

09:27:41 1 A. The issue of consent in marriage in Sierra Leone also has
2 to look at the Constitution, because our Constitution recognises
3 cultural and traditional laws, and that is one of the challenges
4 we face as women's rights activists. So your definition of that
5 also has to take the legal space in which it happened. Because
6 the 1991 Constitution recognises traditional and cultural laws.
7 And in Sierra Leone that affects us in marriage, inheritance and
8 a few other areas, especially with regards to women.

09:28:09 9 Q. But do you recognise consent by child, if given, in
10 marriage?

11 A. If it is recognised by the Constitution I cannot go against
12 it. That is why it is the parent has to come in. So the
13 Constitution, I cannot go against it, something that you have to
14 challenge in a court of law. But the 1991 Constitution
09:28:21 15 recognises traditional and customary law, as well as religious
16 law. And marriage and inheritance actually is what is most
17 affected. So that is one of the challenges we are facing. This
18 is a court of law. I cannot say it is illegal, which means I am
19 challenging my own constitution.

09:28:39 20 Q. We will come to that. But let me just ask you one more
21 question before we actually come to the Constitution. What would
22 be your definition for the word "wife"?

23 A. Well, again, because Sierra Leone, in terms of marriage,
24 operates three legal system, you have to look at it differently.
09:29:02 25 But it is a union between a man and woman that is agreed between
26 the families. That the family agreed, that the process of
27 negotiation before that person becomes a wife is done, and the
28 man has an obligation and a responsibility within that
29 relationship, so also the wife who has rights and

1 responsibilities within that relationship.

2 Q. Okay, let me make it simple for you. Will you agree with
3 me if I define "wife" as the female spouse in the marriage?

4 A. I think it is a most simplified way you can define it, but
09:29:37 5 it goes more than that.

6 Q. And if it goes more than that, what would be your further
7 definition?

8 A. Well, this is what I have explained. It's a process --
9 this is why, when a women dies among the Temne, if you are not
09:29:53 10 married there can be post mortem marriage. Before that man
11 buries that woman he has to marry her. She is not his wife, he
12 cannot take responsibility. So this is why I'm saying it's a
13 very simplified language. It all depends where you are applying
14 the language "married" or "wife". Even if you are living
09:30:12 15 together for 20 years, if you have not done the ceremony, when
16 she dies you cannot bury her. You have to perform the ceremony
17 before you are allowed to bury her. So the definition of "wife"
18 cannot be interpreted in modern language. You can live together
19 for 20 years, but she's not your wife because it's not accepted
09:30:31 20 that she is your wife in the sense of the traditional marriage.

21 So you have to perform it. This why when you do the inverted
22 comma, you can say whether the consent was there, whether the
23 ceremony was done. If it is not done then it is not legal.

24 Q. So you now agree with me that in order to be considered a
09:30:51 25 wife, in whatever form, be it traditional, general -- by
26 "general" I mean civil or Christian -- there has to be some form
27 of marriage ceremony; not so?

28 A. Consent marriage ceremony, yes.

29 Q. And you rightly said that marriage is all about a contract

1 between, in the case of a traditional setting, between a man and
2 a woman and as well as between two families of the spouses?

3 A. Accepted marriage and accepted wife. That this the
4 community. For you to be accepted that this person is legally
09:31:27 5 your wife, in a willing relationship, you have to have that
6 ceremony.

7 Q. I am a bit confused. Please, help me clarify this. What
8 do you mean by "accepted marriage" and "unaccepted marriage"?

9 A. Because, like I said, you can leave, you can call the
09:31:45 10 person, "She's my wife", which happens, people who live together.
11 Because everybody think when somebody lives together, it is a
12 wife and husband. You know that in this country. But for the
13 people to accept you, this is why whenever there is an
14 opportunity for you to reclaim your authority, it is not

09:31:59 15 accepted. So, for the community and the social society to accept
16 you as a legal binding husband you have certain ceremony. So,
17 you can call the person your wife, which people do, which is why
18 I said that the paramount chief in the Temnes allow post mortem
19 marriage, because it creates the respect in the relationship. So
09:32:22 20 you can stay together as husband and wife because by living
21 together, like in common law, but in the eyes of the community
22 and the society for the respectability, for the children -- this
23 why children who are not legally wed, the ceremony is not done,
24 cannot inherit properties or chieftaincy. You cannot be a chief
09:32:43 25 if your mother is not legally married.

26 Q. Yes, but is it not when the community actually accept the
27 relationship that the word "marriage" comes into context?

28 A. Marriage the activity; the wife is the byproduct.

29 Q. Yes, but I am saying it is when the community, according to

1 what you have just said, recognises that relationship that the
2 word "marriage" comes into it, I mean traditionally.

3 A. No, no, no. In traditionally, you married and the
4 community accepts it. But, like I said, you can live together
09:33:20 5 but they do not accept you, and it has certain repercussions. So
6 you yourself can live as husband and wife. But for the
7 community, for you to inherit in terms of chieftaincy, for you to
8 be buried properly when your father -- or when you die or when
9 your relationship die, you have to perform that ceremony. So you

09:33:40 10 can still be called a wife to the man, or the man can call you
11 wife, you can call yourself a wife, but as far as the society is
12 concerned, the community is concerned, you are not. This why I
13 said -- when I started here I said to you that even when my own
14 mother died they refused to allow my husband's family to perform
09:33:58 15 the ceremony until we did the marriage when my mother was lying
16 dead.

17 So, you can call the person, the issue of a name is not an
18 issue; you can call yourself husband and wife. But the society
19 will not accept you as husband and wife especially until a
09:34:14 20 situation occurs. So this is why people put pressure, when you
21 die you live as husband and wife and wife die. You don't have a
22 right over him, over her. So you have to do the ceremony. So
23 you legitimise the relationship. That does not mean that you
24 have not lived as husband and wife, you have not had a
09:34:33 25 relationship. It just means that you have to be accepted by the
26 family and the community.

27 Q. So there is actually a difference between marriage and a
28 mere relationship, an ordinary relationship that does not have
29 the fanfare that goes with marriage; not so?

1 A. You can call yourself marriage. For example, I can give
2 you an example. You can married in England -- this why people
3 who live together in England, married they have licence, but they
4 come here and perform the ceremony. So, you can still married
09:35:05 5 and call yourself husband and wife, but you still have to do the
6 tradition.

7 Q. Mrs Bangura, it seems it's becoming a bit interesting.
8 Now, you have heard about the objective and the subjective test;
9 not so, for various forms of contract. Because now you are
09:35:19 10 saying that --

11 A. I am not a lawyer, please. Thank you very much.

12 PRESIDING JUDGE: Mr Fofanah, a subjective/objective test
13 applying to what?

14 MR FOFANAH: Sorry, Your Honour, I was actually coming to
09:35:32 15 that.

16 PRESIDING JUDGE: I see.

17 MR FOFANAH:

18 Q. Now, Mrs Bangura, when you say that two parties coming
19 together, one calls the other "husband" and the other calls the
09:35:47 20 other "wife". But this society, or the community in which they
21 live, generally does not accept them as such. Isn't that the
22 case of subjectivity on the part of that person and the other,
23 the fact that the society does not, but they, left to themselves,
24 regard themselves as such?

09:36:12 25 A. Well, the society has a right to do it. That is why,
26 because the family unit is very important, there come a time when
27 you have to do it. So you might be willing to do it within a
28 certain period, but you yourself knows the repercussion. So that
29 is why when anything happens to your family, those of us who are

1 in women's rights issues, fighting for women's rights, you can
2 understand that if your family dies you cannot contribute, if you
3 have a problem, nobody can come to you, and there is always the
4 issue of stigmatisation because you are not married. This is
09:36:45 5 part of society.

6 Q. Now, I am going to spell this. You have heard about this
7 phrase before "taptomi marriage".

8 MR FOFANAH: "Taptomi" I will spell, Your Honours:

9 T-A-P-T-O-M-I. It is a Krio word.

09:37:01 10 Q. I mean, you have heard about it, taptomi marriage; not so?

11 A. It's common law wife.

12 Q. Taptomi relationship, I mean.

13 A. It is common law wife, what you call it.

14 Q. Yes, it is a common law relationship.

09:37:08 15 A. Yes.

16 Q. And by "common law relationship", what do you mean?

17 A. When you live together. You live together, you have
18 relationship, you stay in the same place.

19 Q. But you are officially not married; not so?

09:37:27 20 A. You are officially not married. Well, you are not married
21 to their own eyes because you have not fulfilled the ceremony.

22 Q. I mean, can a husband and a wife be married without the
23 official aspect? I mean, because I am still confused about this.
24 You say the husband and the wife can consider themselves married,
09:37:49 25 but then outwardly they are not.

26 A. You can go to registry. You can go to registry. In
27 Sierra Leone, because of tradition where we live as society, you
28 can take somebody go to registry, as long as the tradition people
29 are concerned you are not married because you have not performed

1 the tradition ceremony. So you can call yourself husband and
2 wife in the general law, civil law, but in the traditional law
3 you are still not husband and wife to them.

09:38:21 4 Q. We have to distinguish between these forms of marriage. As
5 far as I know they are all official forms of marriages. The
6 registry marriage is otherwise called civil marriage; not so?

7 A. Yes.

8 Q. Then you have a Christian marriage, according to our laws?

9 A. The church.

09:38:31 10 Q. Then you have Islamic marriage, which hitherto was the
11 Mohammedan marriage?

12 A. Yes.

13 Q. Of course, you have the customary marriage; not so?

14 A. Yes.

09:38:43 15 Q. Yes. So these are all forms of marriage. Now I am talking
16 specifically about the common law relationship, which you have
17 rightly agreed with me is not a form of marriage officially; not
18 so?

09:38:59 19 A. It has certain rights in civil law. You know that if you
20 live together with somebody, you have certain rights as a woman
21 within that. But that doesn't mean that, you know, you are
22 married in the traditional way. You have rights as a woman.

23 Q. Would you be considered married in the general way? By
24 "general", I mean civil, Christian or otherwise --

09:39:11 25 A. No.

26 Q. So, officially, the common law relationship is not a form
27 of marriage?

28 A. But it's a marriage between the two people.

29 Q. Is it officially a form of marriage between the two people?

1 A. Well, if they so decide it, they accept it with them, but
2 it is not in the customary accepted, it is not in the civil
3 accepted, it is not in the Mohammedan accepted. But it is a
4 decision between the two of you that you want to stay together as
09:39:45 5 husband and wife.

6 Q. As well as in the Christian form it is not accepted?

7 A. Oh, it's not.

8 Q. Okay. Okay, so we will move on from there now.

9 Mrs Bangura, you talked yesterday about arranged or early
09:40:05 10 marriages; not so?

11 A. Yes.

12 Q. You even mentioned that in your report. Now do you
13 consider these forms of marriages as a form of forced marriage?

14 A. Well, not really in the sense of the word, because marriage
09:40:22 15 involves -- it's an arrangement, an agreement and it involves
16 consent between two families, mostly in the African tradition.
17 Sorry, in the northern Sierra Leone and south and east, apart
18 from the Western Area. And it is a reason why I mention that the
19 consent of the parents -- marriage is a relationship between two
09:40:40 20 families.

21 Q. Yes, but it is as well a relationship between two people?

22 A. Well, not in all cases then they would know. Because you
23 and I know here in Sierra Leone that you can marry a wife that
24 you don't even know; you meet the person very near to the day of
09:41:03 25 marriage. You can marry a husband, but it is arranged between
26 you. That's what you call "arranged marriage", which is the
27 agreement -- the family of the wife thinks that they need their
28 daughter into this family in the various instance I gave in the
29 report. The family of the husband thinks that this daughter will

1 make a good wife for our son. So they go and talk to the mother
2 of the daughter, and she agrees, or they talk, or they go and
3 arrange between the families. So, in that case, the discussion
4 takes place even before either the wife or the husband knows.

09:41:35 5 Eventually they will know, but that is in a well advanced stage.

6 Q. Now, suppose this discussion is done between the families
7 and then the daughter refuses and says no. Will you consider
8 that a form of forced marriage if the marriage goes ahead?

9 A. Not exactly, because I don't want to go into detail of
09:42:00 10 issues like FGM and others. But, invariably, like I mentioned in
11 the report, if you read the report, I said those people
12 eventually do agree, because they know that -- they know what the
13 family means to them, they understand they cannot continue
14 rejecting it, and so they have to live within that. And so

09:42:22 15 eventually they accept it. You are not tied, or you are not
16 taken against your will at that wedding. You are spoken to.
17 That is why they send the mother, that's why they have the
18 godmother. They come, they talk to you and prevail on you, and
19 eventually you accept, you go through the ceremony. So you are
09:42:41 20 not dragged in there unwilling. They talk to you and they give
21 you a lot of presents, they do all sorts of arrangements for you,
22 and then you get married.

23 Q. Is it always the case that daughters will accept after
24 families have consented to their marriage?

09:43:00 25 A. When I spoke to the paramount chief in Makeni -- he is one
26 of the people that I spoke to -- and he said to me that it was
27 because education was not -- in Sierra Leone most of time the
28 girls were not educated -- but now a lot of parents don't insist
29 on getting their children first to be marriage or arranging the

1 marriage for them, because eventually they know that the child
2 has to agree on the marriage. So now it is not as if, if you
3 don't agree we force you on it.

09:43:36 4 Q. No, you have given a different answer to my question. I
5 was not talking about the parents, I was talking about the
6 daughters. I mean, let's forget about the male spouse. Is it
7 all the case, because you have rightly -- well, you have
8 indicated to the court that, I mean, in traditional settings it
9 is always the case that after the parents have consented to
09:43:55 10 marriage they will cajole, prevail or use other forms of --

11 A. Negotiate.

12 Q. Negotiation. But then, I mean, the female spouse, be her
13 daughter or a woman, will consequently agree. Isn't that what
14 you just said?

09:44:09 15 A. Yes.

16 Q. Now, is that always the case?

17 A. Oh yes; they do agree.

18 Q. So was your case the exception when at the age of 12 you
19 chose to leave after your father had insisted?

09:44:23 20 A. I didn't leave. My mother made the choice. I didn't
21 leave. I couldn't leave at the age of 12. I told you that my
22 father wanted me to get married at the age of 12, my mother said
23 no so we packed out. My mother wanted me to go to school. So it
24 was -- I didn't get involved in that situation.

09:44:46 25 Q. Now among the Temnes is it not the case that the husbands
26 carry the day when it comes to -- let's say the father -- the
27 father's consent is primary. It is in fact the paramount issue
28 when it comes to marriage among the Temnes.

29 A. It is true to a large extent. It is also depends on the

1 family where the mother comes from.

2 PRESIDING JUDGE: Mrs Bangura, I want to clarify when you
3 say consent is that consent on the female side or consent on the
4 male side of the partnership?

09:45:29 5 MR FOFANAH: I mean family consent. Okay, the female side,
6 you're right.

7 Q. Did you not even indicate that among ethnic groupings that
8 trace their heritage patrilineally that men have the day when it
9 comes to --

09:45:45 10 A. Yes, especially in the north.

11 Q. Yes. So in your case you were fully aware of the
12 situation, not so, when you left with your mother? You knew what
13 was going on?

14 A. I just knew my father didn't want to pay my school fees.
09:46:07 15 He said he wasn't going to pay any more and that he was going to
16 take a second wife.

17 Q. And you knew as well that he was insisting that you will be
18 married to somebody else?

19 A. He wanted, because as an imam who was preaching against
09:46:20 20 early pregnancy and other things, he started coming under
21 pressure. So he raised the issue and he wanted that.

22 Q. So you will consequently agree with me that because you had
23 wanted to be educated, you had wanted to go to school, you were
24 not interested in marriage at that time; not so?

09:46:39 25 A. My mother wanted -- I was 12 years old. My mother wanted
26 me to go to school. She insisted I was an only child because she
27 wasn't allowed to go to school because she was a girl and all her
28 brothers went to school. So she wanted me and she insisted that
29 I have to go to school.

1 Q. What did you want? Did you want marriage or school at that
2 time?

3 A. At 12, how do you know?

4 PRESIDING JUDGE: Pause, Mrs Bangura. Mr Fofanah, we
09:47:05 5 appear to be getting into cross-examination concerning the
6 witness's personal life, not her report. What is the relevance
7 of this line of questioning?

8 MR FOFANAH: The witness has made a generalised statement
9 that it is always the case that if her parents consent to
09:47:27 10 marriage the females spouse will consequently consent. I was
11 just trying to see if her case was the exception. That is what
12 I'm trying to establish.

13 PRESIDING JUDGE: Well, I think you have explored that
14 sufficiently.

09:47:36 15 MR FOFANAH: As Your Honour pleases.

16 PRESIDING JUDGE: Curtail your questions to the issues in
17 this case.

18 MR FOFANAH: Most grateful.

19 Q. Mrs Bangura, I am putting it to you that in many cases, in
09:47:51 20 many cases in Sierra Leone, girls - and by girls I actually mean
21 people below the age of 18 - have often not given consent to
22 marriage when they are asked by their parents to do so.

23 A. Well, I don't have a statistical analysis on that and I
24 haven't done analysis on that. So I know what is the theory,
09:48:23 25 what actually happens. But for me to have done a study on the
26 number of people who have refused to get married because their
27 parents want them to get married, I cannot be in a position to
28 say that here. I know that now with the advance of education
29 parents know the benefit of education for the girl child, so it

1 is not so common practice for parents to insist that their
2 children must get married. The reason why early marriage was
3 done was because they don't want their children to get pregnant
4 in school. So because of various reasons parents insist. But
09:48:51 5 with education -- this was what some of the people said. With
6 education now people are not forcing their children and in any
7 case you can't. Now we have lot of issues on child rights
8 education, everybody knows what it means. And of course with the
9 war, if you talk to the Minister of Education they will tell
09:49:10 10 you'll since the end of the war there has been a massive increase
11 in the number of the girl child in school. So much so that the
12 government has responded by making education for the girl child
13 in the Northern Province a free education, including uniform and
14 books. So there has been an increase of girls in school as a
09:49:28 15 result of the war because when people went into displaced camp
16 and IDP camps, internally displaced camp and refugee camps, they
17 had a lot of schools there to get their children. They saw what
18 their daughters did for them during the war. So that was a
19 phenomenon maybe before, but I don't have an analysis of that.
09:49:46 20 But I know there has been over a hundred per cent increase on the
21 girl child enrolment in schools.
22 Q. But notwithstanding, there are still many teenagers out
23 there who are in fact not going to school?
24 A. Well, that's not their fault. That's not their fault.
09:50:02 25 It's the cost of living, it's the high rate of unemployment. So
26 it's not their fault that they are not going to school. It is
27 the failure of government to provide the facilities.
28 Q. I take that to be an affirmative answer to my question. So
29 in that scenario, given that there are teenage girls out there

1 who are not going to school, is it not the case that the parents
2 of those girls often seek their hands in marriages with or
3 without their consent?

09:50:35 4 A. It is really not common now, Mr Fofanah, for parents to
5 force their children for marriage. It is not common. I mean
6 even in the most illiterate people it is not common now that
7 parents insist their children should get married and force them
8 to get married.

09:50:54 9 Q. Mrs Bangura, are you aware of a consultative conference
10 that was held in Sierra Leone in between May 21 and 24, 2001 by
11 the Commonwealth Secretariat titled "Women and Men In Partnership
12 For Postconflict Reconstruction"?

13 A. I think it was actually the office participated but I
14 wasn't able to go.

09:51:23 15 Q. But at least you knew about that conference; not so?

16 A. Yes, definitely. By the Minister of Gender.

17 Q. Yes. Are you aware that in that conference the concept of
18 forced marriages was discussed at length?

19 A. I didn't attend the conference so I'm not aware.

09:51:42 20 Q. Have you, by chance, seen the report produced by the
21 participants of that conference?

22 A. The report was sent to me but I didn't read it.

23 Q. You didn't read it.

24 A. No.

09:51:52 25 Q. So if that report had discussed forced marriages then you
26 wouldn't have known; not so?

27 A. No.

28 Q. Are you also aware, Mrs Bangura, through the length and
29 breadth of your research that the UNICEF fact sheet on early

1 marriages describes forced marriages as the notion of consent --
2 as the notion where if consent is not given then it amounts to an
3 abuse of the rights of especially people below the age of 18.

09:52:51 4 A. Well, you should accept that from UNICEF because they work
5 on children's rights. So their definition actually has to be on
6 the rights of the child.

7 Q. Do you accept that as an activist?

8 A. Well, I have to take -- even as an activist I work within
9 my environment. There are certain basic things you cannot accept
09:53:08 10 because you know it is impossible to deal with it at that
11 particular time. As an advocacy who works in it, you know there
12 are certain things you can't take head on in your own community
13 because you are not going to be able to make any result. It's
14 like we fight for FGM, you can't make any result in Sierra Leone
09:53:24 15 at the moment.

16 Q. So should a girl child at the age of 13 be asked to seek
17 her hands in marriage with an adult male?

18 A. They talk to you.

19 Q. No, I am still asking, I am framing my question.

09:53:42 20 A. Okay.

21 Q. If a girl child at the age of 13 is asked to seek her hand
22 in marriage to a male adult and that child refuses and says she
23 prefers school but the parents force her on, will you be ready to
24 consider that as a form of forced marriage nowadays?

09:54:05 25 A. I don't know about other traditional but I know, where I
26 come from, when both your parents agree on something, when they
27 talk to you it is almost impossible for you to disagree. It's
28 fait accompli because of the family. So when they talk to you,
29 you invariably do not deny. The traditional Sierra Leonean

1 society, you know you do not deny. Even if you don't want it,
2 you accept. So there is no issue of argument, unless if one of
3 the parents disagree. So that's why the discussion takes place
4 between the parents, they're agreed. This is why they talk to
09:54:49 5 individual parents. So it's the father and the mother. Even
6 though it is the father that normally takes the final decision,
7 invariably he discusses with his wife or he discusses with the
8 elder wife. So the issue of the child disagreeing, it is not in
9 our own culture to disobey your family.

09:55:06 10 Q. Would you consider it lawful?

11 A. Of course it is lawful within your traditional custom. It
12 is lawful. You can't use the English -- the general law to
13 interpret the tradition because the circumstances doesn't vary
14 and you have to remember that even at the traditional law you
09:55:21 15 don't even have Magistrate's Court. Why does the law of Sierra
16 Leone accept customary law at a particular community?

17 Q. In that case, Mrs Bangura, I will look at your report and
18 see if you still hold that view.

19 MR FOFANAH: Your Honours, I am referring to page 11 of the
09:55:41 20 report under the rubric "Marriage Under General Law". May I
21 proceed, Your Honour?

22 PRESIDING JUDGE: Yes, Mr Fofanah. We have that before us.

23 MR FOFANAH:

24 Q. Could you be kind enough to read out, it's a short
09:56:17 25 paragraph under that rubric, Mrs Bangura?

26 A. Excuse me, under "Marriage Under General Law"?

27 Q. Yes, Mrs Bangura.

28 A. "In practice most Christian and civil marriages are
29 celebrated after the age of 18. This is a marked contrast to the

1 situation under customary law whereby girls are often married at
2 an early age, as young as 10 or 12 years. Marriage at this age
3 is" --

09:56:44 4 THE INTERPRETER: Your Honour, the witness is reading too
5 fast for us to keep up. Mrs Bangura, she's reading too fast for
6 the interpreters to keep up with her.

7 PRESIDING JUDGE: Thank you, Mr Interpreter. Mrs Bangura,
8 you are going too fast for the interpreters, so if you could
9 please start again from the beginning and read more slowly.
09:56:56 10 Thank you.

11 THE WITNESS: "In practice most Christian and civil
12 marriages are celebrated after the age of 18. This is a marked
13 contrast to the situation under customary law whereby girls are
14 often married at an early age, as young as 10 or 12. Marriage at
09:57:16 15 this law under the general statutory law, contrary to section 6
16 and 7 of the Prevention of Cruelty to Children Act 31 of the laws
17 of Sierra Leone whereby sexual intercourse with a girl under 14
18 with or without her consent is a criminal offence."

19 Q. So do you now agree with me that if a girl under the age of
09:57:39 20 14 is forced into marriage it becomes unlawful?

21 A. Under general law. Mr Fofanah, in traditional Sierra Leone
22 you apply customary law. You do not apply general law. The law
23 that controls the life of people in that traditional setting is
24 customary law. This is the reason why even if you are in the
09:58:03 25 Western Area, you are a Muslim, your husband dies, the estate is
26 interpreted according to the Mohammedan law irrespective of
27 whether you are in the Western Area. It has happened to educated
28 people. So this general law we are talking about is what we use
29 in the Western Area. And so in customary law when they know

1 this, if you go back into my reports I will tell you when I spoke
2 about sometime the man's child is identified as a wife even
3 before she is born. But in puberty she doesn't go into that
4 relationship until they feel she can carry a baby and it is at
09:58:43 5 puberty which is when your breast is big enough and I gave an
6 example of what that age means.

7 So you cannot use the general law as defined here to apply
8 to customary law when that is what controls what most people's
9 life. You don't have magistrates in most of country upcountry.

09:59:00 10 So we, even as human rights advocate, we use this here in the
11 Magistrate's Court but we have not ever used it in customary law
12 where you have a court clerk in the village.

13 Q. Now, let's leave intestate or testate succession aside. I
14 mean, I am basically talking about what you have described as
09:59:16 15 amounting to a criminal offence.

16 A. Under the general law.

17 Q. Yes, I am coming, please. Now the general law of
18 Sierra Leone and the customary law of Sierra Leone, which one is
19 supreme?

09:59:27 20 A. Well, you have to tell me, you are legal. But as far as
21 I'm concerned, one of things I am fighting as women's rights,
22 it's making sure the constitution takes that section which
23 recognises customary and Mohammedan law which contradicts what it
24 says when the general law is more supreme. So I know it is in
09:59:45 25 theory, but you and I know it is not in practice. It doesn't
26 happen in practice.

27 Q. So in theory at least you will agree with me that the
28 general law is supreme to customary law?

29 A. Which applies to a very limited number of people.

1 Q. Do you agree with me? It is a yes or no question.

2 A. I cannot agree, because when people don't know about it and
3 they don't it apply it within the environment in which they live,
4 in the technical sense it does not apply to them because they
10:00:10 5 can't use it. Something only applies to you when it is
6 accessible to you, when you can use it.

7 Q. We'll leave the technicality and the practicality aside. I
8 am still talking about the theory. In theory do you agree that
9 the general law is supreme to customary law?

10:00:27 10 A. Well, you have to tell me that. You are the lawyer, I am
11 not the lawyer.

12 Q. Well, I'm putting it to you, Mrs Bangura, that the general
13 law of Sierra Leone is supreme to customary law.

14 A. If you say so.

10:00:40 15 PRESIDING JUDGE: The witness has already said you are the
16 lawyer, she is not the lawyer. She has answered that question,
17 Mr Fofanah. You are asking a legal question.

18 MR FOFANAH:

19 Q. Now, will you agree with me, Mrs Bangura, if I say that
10:00:58 20 there is a provision in our laws that a customary law which is
21 held to be repugnant, which is held to be contrary to natural
22 justice, good conscience and equity is illegal in Sierra Leone?

23 A. It is very interesting to tell what is legal, what is not
24 legal. For me, as an activist and somebody who works on women's
10:01:27 25 rights, the issue of legality is only when it can be applied.
26 Because, like I mentioned here, that I said customary law is even
27 illegal in Freetown, but as you sit there as a lawyer you know
28 there are hundreds of customs -- customary law courts in the city
29 of Freetown and the government cannot do anything about it and

1 the judiciary cannot do anything about it. And on a daily basis
2 Sierra Leoneans are subjected, they are fined, every sort of
3 activity takes place and nobody is taking actions. So for that
4 man, an ordinary man who cannot read and write, there is nothing
10:02:03 5 you can tell him about the issue of legality. Because it is
6 where its effective life, that is what matters. That is why the
7 issue of custom comes in. Until the judicial system makes that a
8 reform and make sure action is taken and people who practice it
9 are punishable by the law, then you can then tell an individual
10:02:23 10 that this law is supreme above the other law.

11 Q. I am taking you back to your words. When did customary law
12 become illegal in the Western Area in the Sierra Leone?

13 A. That's why people are saying. Because in the human rights,
14 when people come to us and complain that I have been taken to the
10:02:41 15 this law when the Temne tribal man has a court also, you talk to
16 lawyers, which we talk to a lot of them, they tell you this court
17 are not legal in the Western Area, they should not practice them
18 here. It is the Magistrates Court. But nobody takes action.
19 And we have gone to court several times and these people are
10:02:57 20 fined hundreds of thousands and yet they cannot have any redress.

21 Q. So when you say customary law is illegal in the Western
22 Area of Sierra Leone, is it a matter of fact or a hearsay?

23 A. Well, that's what the lawyers say, that they are not
24 supposed to have this court existing in the Western Area. They
10:03:14 25 cannot have -- you have to take this in cases to the magistrates
26 courts.

27 PRESIDING JUDGE: Mr Fofanah, we have again wandered into
28 legal theory. Address the issue in the case.

29 MR FOFANAH: Unfortunately, Your Honour, I mean, this

1 witness has actually delved a lot into the law in her report.
2 I mean, in fact she went extensively to town at page 11. I mean,
3 giving various forms, I mean, marriages under the general law,
4 customary law, Mohammedan law, and then even expanding.

10:03:50 5 PRESIDING JUDGE: Page 11 deals with marriage and matters
6 related to marriage. You are going into a much wider theory of
7 constitution, et cetera. Confine yourself to the issue.

8 MR FOFANAH: Okay, I will confine myself.

9 Q. Do you know about the Kroo community in Freetown?

10:04:08 10 A. No. I have heard about them, but I have never worked with
11 them.

12 Q. But you know about them; not so?

13 A. I know they live around Kroo.

14 JUDGE SEBUTINDE: Could we have the spelling of that word,
10:04:14 15 please?

16 MR FOFANAH: K-R-O-O, Your Honour. The Kroo community.

17 Q. So you are aware that they live somewhere around Kroo Town
18 Road; not so?

19 A. It is a very minority, yes, I know, from Liberia.

10:04:33 20 Q. Are you aware that these people have their own customs and
21 traditional practices?

22 A. Well, every ethnic group in Sierra Leone has their custom
23 and traditions. Some of them are similar, some are not.

24 Q. Okay. So let me take you now to --

10:04:51 25 MR FOFANAH: Since Your Honours have ruled that I am going
26 a bit constitutional, I will take Mrs Bangura back to her report
27 and see what she said about constitution again. Yes, Your
28 Honours, I am still referring to page 11 under the rubric
29 "Customary Law". I think it is the third paragraph from the top.

1 Q. Mrs Bangura, this how you defined customary law in your
2 report. With Your Honours leave I will just read out.
3 "Customary law is defined by the 1991 Constitution as 'the rules
4 of law by which customs are applicable to particular communities
10:05:46 5 in Sierra Leone'." That is how you defined customary law;
6 correct?

7 A. Yes.

8 Q. And you were quoting the Constitution of Sierra Leone 1991;
9 not so?

10:05:57 10 A. Mm-hm.

11 MR FOFANAH: I wanted to read the exact provision in the
12 Constitution and I have it here with me, Your Honours, which I
13 believe Mrs Bangura was quoting from. It is section 170
14 subsection 3.

10:06:29 15 MS PACK: Your Honour, I object to going further down again
16 this line of questioning on the detail of the 1991 Constitution.
17 This provision has been identified, or part of it, by Mrs Bangura
18 in her report as a background and the analysis on the law, at
19 least the setting out of the law, is confined to the frameworks
10:06:53 20 for marriage. So I object that Your Honours have indicated to
21 counsel for the second accused that this is a line of questioning
22 that has gone far enough, in my submission it really has and to
23 go further down it is inappropriate.

24 MR FOFANAH: Your Honours, what I was basically trying to
10:07:11 25 do, because I realise that the quotation is slightly different
26 from what is contained in the actual provision in the
27 Constitution which the witness was quoting from. So if we get
28 the actual quotation I was not going to expand on that. I just
29 want the Court to be fully seized of the provisions as they are

1 or as they, I mean, supposed to be within the relevant section of
2 the Constitution. Because these are not my words. They were
3 quotations made by the witness.

4 PRESIDING JUDGE: What is the relevance of this,
10:07:48 5 Mr Fofanah?

6 MR FOFANAH: Because I want to ascertain that, I mean,
7 customary law is applicable to particular communities in Sierra
8 Leone and that the Kroo communities were one such community.

9 PRESIDING JUDGE: I think that has already been
10:08:02 10 established.

11 MR FOFANAH: If Your Honour pleases.

12 Q. So you agree with me, Mrs Bangura, that customary law is
13 law by which customs that are applicable to particular
14 communities in Sierra Leone are engaged; not so?

10:08:26 15 A. Yes. Yes.

16 Q. When the Kroos, for example, practice their custom and
17 tradition in Freetown at Kroo Town Road, they're actually
18 considered to be practising customary law; not so?

19 A. Within themselves.

10:08:42 20 Q. So in that case, customary law will not be illegal in the
21 Western Area, including Freetown?

22 A. I'm talking about courts. You and I were talking about
23 courts. If you had listened very carefully I told you that the
24 courts are not supposed to operate. The courts. It is the
10:08:57 25 courts, the legal system. The courts. They're operating sitting
26 courts and that is what the lawyers are saying.

27 Q. And by "court" you mean?

28 A. A legal court like the one you are in. Because it is not a
29 trained magistrate. Customary courts are allowed out of Freetown

1 in the Western Area and under the chieftaincy. They are part and
2 parcel of the process of chieftaincy. In every chiefdom you have
3 a chief, you have a court, you have his own chiefdom police. So
4 you have a strategy, you have all this system that goes with him.
10:09:33 5 So that is the traditional system. That is why Sierra Leone has
6 two systems of governance. You have the traditional system of
7 governance, which takes the paramount chief and apply out of the
8 Western Area, and then you have the modern democratic system.
9 And for those of us who are working on governance, that has been
10:09:49 10 our biggest problem, because one is different from the other.
11 They completely contradict each other. So when I talk about
12 courts, I am talking about the courts that operate in chiefs.
13 And you and I know that in Freetown we are not supposed to
14 have paramount chiefs. We are supposed to have tribal heads.
10:10:06 15 And these tribal heads, because of the failure of government, has
16 transformed themselves into traditional leaders and they have
17 ceremonial chiefs which they are not supposed to have. If you
18 are a Temne, you know they have Kanta in which is the society
19 where they put chiefs within a certain period of time. And our
10:10:21 20 paramount chiefs from the northern province do not like it. They
21 disagreed, because they said those people are tribal heads, they
22 are not paramount chiefs. Because to be paramount chief you have
23 to come from a particular family. You inherit it. And here it
24 is not. It is the government that appoints you. So there is --
10:10:41 25 if you are very aware with the problems with traditional things,
26 you know there is a contestation between our traditional leaders
27 and their relationship with tribal head in the Western Area.
28 So what I said to you, the fact that the tribal heads have
29 had their own courts same plans to the paramount chiefs' courts

1 out of Freetown, the paramount chiefs do not want it and the
2 government is saying, "People, it's illegal in our books." It's
3 saying that you cannot have tribal or whatever you call them,
4 traditional courts, held in the city. That's what I'm -- I am
10:11:16 5 not talking about customs. The customs you practice in Freetown.

6 PRESIDING JUDGE: Thank you, Mrs Bangura.

7 THE WITNESS: Thank you.

8 MR FOFANAH:

9 Q. And If you practice those customs in Freetown --

10:11:24 10 PRESIDING JUDGE: Again, Mr Fofanah, I am asking you the
11 relevance of this line of cross-examination. You are talking
12 theories. The report is before the Court. You are
13 cross-examining on that report.

14 MR FOFANAH: With respect, Your Honour, this witness is an
10:11:38 15 expert witness. She has gone to town in laying the basis of my
16 questioning by actually using customary law as the foundation for
17 her expose on forced marriages. And I am basically trying to
18 explore that. I mean, first of all, establishing that, I mean,
19 it is in fact not true, as well as it is in fact not the law that
10:12:06 20 customary law doesn't apply in the Western Area and that if
21 communities are settled in the Western Area and practice --

22 PRESIDING JUDGE: If that is the issue you put that issue.

23 MR FOFANAH: As Your Honour pleases. I have been trying to
24 do.

10:12:19 25 PRESIDING JUDGE: Do not be impertinent, Mr Fofanah.

26 MR FOFANAH: I didn't mean that, Your Honour, with respect.

27 PRESIDING JUDGE: You were at Kroo Town Road.

28 MR FOFANAH: As Your Honour pleases.

29 Q. Mrs Bangura, you recall in your report, as well as in your

1 testimony, that the majority of Sierra Leoneans are in fact
2 governed by customary law; not so?

3 A. Yes.

10:13:02

4 Q. You even stated that more than 70 per cent of the
5 population?

6 A. Yes.

7 Q. Is it the case that the courts that you have referred to,
8 the traditional courts, everywhere in Sierra Leone apart from the
9 Western Area are presided over by paramount chiefs?

10:13:17

10 A. Court clerks.

11 Q. I used the word "preside".

12 A. Okay.

13 Q. Who preside over those courts; is it the paramount chief?

14 A. It is under the chieftaincy system. It's paramount chief.

10:13:35

15 Q. In every of the local courts that you know?

16 A. No. You know they have the president of the court, the
17 chairman of the court. They have a chairman of the court. In my
18 village they call them the president of the court. He actually
19 presides. But chiefs have their own traditional court. Because

10:13:49

20 if you come from a chieftaincy home, you are in a house, you know
21 that you wake up at 5.00 in morning, you see people full in your
22 house and somebody has brought somebody because somebody has
23 bewitched you or his wife has committed adultery. So they hold
24 their own court. But in the traditional court it is the court
25 chairman or the president of the court they used to call them.

10:14:05

26 They are the ones who preside over the courts.

27 Q. And in most cases, if not all, these court chairman or
28 president are in fact not paramount chiefs; not so?

29 A. No, no, no, they are different from paramount chief. This

1 is like the judiciary arm of the chieftaincy system.

2 Q. So it necessarily does not follow that the courts are
3 actually held by the paramount chiefs?

4 A. Well, we have mentioned that this is under the chieftaincy
10:14:38 5 system, but it is not presided by the chief. It is the chairman
6 of the court or the president of the court that presides over,
7 but he is answerable directly to the paramount chief. It is
8 under the chieftaincy. Like you have the chieftdom clerk, or you
9 have the chieftdom police; it is under the paramount chief. Or
10:14:54 10 you have the chieftdom prison; it is under paramount chief. So
11 they have the whole governance structure which is answerable to
12 them. But they have different people who head these institutions
13 and structures.

14 Q. Have you ever heard the term judicial advisers or customary
10:15:11 15 law officer?

16 A. Yes.

17 MS PACK: Your Honour, there cannot be any relevance to
18 questions concerning who presides over or who takes part in the
19 customary law courts system. So I object to this latter question
10:15:28 20 and any further questions along this line.

21 MR FOFANAH: With respect, Your Honour, my learned
22 colleague went to town with the issue of whether the witness
23 interviewed officials of the local court in her report. I mean,
24 gathering information relating to her report. In fact, they went
10:15:49 25 to the town on the issue of court clerks. And then the witness
26 even said, if I can vividly recall, that court clerks are like, I
27 mean, the institutional memory of the local court.

28 [AFRC040CT05B - CR]

29 So I am just trying to explore that to see if the witness

1 exhausted the basic issues which are relevant to ascertaining
2 customary law in especially the provinces. That is why I was
3 asking about the customary law officer who happens to be a very
4 crucial official in the administration of customary law in the
10:16:21 5 provinces.

6 [Trial Chamber conferred]

7 PRESIDING JUDGE: We allow that question.

8 MR FOFANAH: Most grateful, Your Honour.

9 Q. So have you ever heard about the words "judicial adviser"
10:16:52 10 or "customary law officer"?

11 A. I have.

12 Q. Do you know the rule within the customary law court system?

13 A. Yes, they are the people that connect between the customary
14 law and provide legal advice to the customary law -- sorry, to
10:17:08 15 the local Courts and other things.

16 Q. Did you talk to any of them when you were preparing your
17 research?

18 A. Because they are not custodian of customary law, they
19 advise. Because the customary law officers advise and

10:17:23 20 interconnect between the modern legal system and the custom.
21 They are not custodians, they are legal people who studied in law
22 schools. And if you go to anywhere, any community, you talk to
23 them, they will tell you who are the custodian of customary law,
24 who are the people that understand the customary law and deal
10:17:40 25 with it. So those are the people you --

26 PRESIDING JUDGE: Mrs Bangura, you haven't actually
27 answered the question. Please answer the question.

28 THE WITNESS: No, I haven't. I didn't talk to them.

29 PRESIDING JUDGE: Thank you.

1 MR FOFANAH:

2 Q. Are you aware that these officials advise on issues of
3 customary law in the provinces; they give legal advice?

4 A. Yes, they give more than legal advice. They give legal
10:18:03 5 advice.

6 Q. Will you consider your report to be complete without
7 interviewing them?

8 A. Yes.

9 Q. Okay. Now, let's come to the factual issues. Mrs Bangura,
10:18:24 10 where were you -- to the best of your knowledge, when was it that
11 you said rebels invaded Freetown? Do you recall the time?

12 A. Which rebels?

13 Q. I think you were referring to RUF and AFRC.

14 A. I made the analysis that why information is always been
10:18:57 15 distorted and why some of the reports I don't read. I gave an
16 example of that. That's one area where I mention when Freetown
17 was attacked in January 1999. The second aspect of when I spoke
18 about some of the girls, where we started providing medical aid
19 and services to girls who have been affected and that phenomenon
10:19:20 20 we started after the invasion of Freetown in January 1999.

21 That's when we started providing medical service, and I mentioned
22 the first money we had was from the British High Commission,
23 because when the girls were -- some of them ran away, they came,
24 we found out that they had serious medical problems. So those
10:19:37 25 are very clear instances why I mentioned when Freetown was
26 invaded.

27 Q. Were you in Freetown when this invasion occurred?

28 A. Oh, definitely. I left Freetown in February to go and
29 monitor the elections in Nigeria, the 1999 elections.

1 Q. Mrs Bangura, were you not taken to a naval boat parked --
2 were you not taken to a naval boat that was berthed somewhere
3 around the coast of Freetown by the British?

4 A. I have never been in a naval boat. You can ask Dr Julius
10:20:13 5 Spencer. You can ask the High Commission of Sierra Leone and you
6 can even ask President Kabbah. I stayed in Freetown. This was
7 some of the rumours, that they said I ran away. But I can tell
8 you that I left Freetown in February. You can ask the British
9 High Commission, and you can ask the Lebanese community. So, I
10:20:33 10 can give you a whole list of people that you can ask and will
11 tell you I was in Freetown in January when Freetown was attacked,
12 and the time I left Freetown was in February to go and monitor
13 the elections in Nigeria under the Commonwealth. So, I have
14 never been in a naval ship, in any case other than watching them
10:20:50 15 when they come or going for lunch or dinner. But that was not a
16 true story.

17 Q. During your stay in Freetown between January and February
18 before you left, were you able to monitor events in Freetown?

19 A. When Freetown was attacked in January, the government fled.
10:21:07 20 It is now the High Commission in Sierra Leone, Ali Bangura, who
21 went to my house and told me that we had to get up. We were the
22 ones who opened the stadium to allow the people to go there as
23 refugees. We were the ones who went to the East End with a
24 battalion of Nigerians to see how much food was in stock at the
10:21:26 25 Water Quay and to allow them to open and we were the ones who
26 were negotiating with the Nigerians to allow the citizens to come
27 out of their house. So I was very active. And I joked to people
28 I was the vice-president, I ran the states. So, I was very
29 active. We documented. We set up a committee to document the

1 people whose houses had been burnt. How many blankets they need.
2 You can ask CGG yourselves. So if you ask all the people who are
3 working on humanitarian at that time. I was one of the key
4 people who were organising the humanitarian assistance and
10:21:59 5 documenting the atrocities and everything. We set up offices at
6 the ECOMOG headquarters. I went to the British High Commission
7 to get a computer so that the civil society can set up an office.

8 THE INTERPRETER: Your Honour, the witness is moving at a
9 very high velocity. We cannot cope with her in the interpreter's
10:22:18 10 booth.

11 PRESIDING JUDGE: Thank you, Mr Interpreter. You have
12 speeded up again. The interpreters are having trouble keeping up
13 with you.

14 THE WITNESS: Sorry.

10:22:25 15 PRESIDING JUDGE: I think you have answered the question.
16 Please move on, Mr Fofanah.

17 MR FOFANAH: I am grateful, Your Honour.

18 Q. Mrs Bangura, in your testimony yesterday whilst you have
19 been cross-examined, you actually was speaking -- you were
10:22:40 20 speaking about bush wives and non-bush wives. You said that, I
21 mean, a lot of bush wives only knew the situation that affected
22 non-bush wives after the fact; not so?

23 A. After they became bush wives.

24 Q. Now, in the course of your interview, were you informed by
10:23:08 25 any of your interviewees that they spent some time with the
26 rebels before they became wives?

27 A. I mentioned yesterday that when I spoke to the girls, I had
28 said, "When did you become a wife? How do you become a wife?"
29 They mentioned to me that when you are captured, they say, "so

1 you now me wife". Invariably, in the majority of cases, that's
2 what happened. Unless, if you go back, some of them, their
3 husbands or bush husband died and somebody else picks them up.
4 But invariably it is at the instant of being captured when the
10:23:46 5 village or community of Freetown was raided, that's when he holds
6 your hand says, "You are my wife, so let's go." And from the
7 documentation we had, some of the people we spoke to in the
8 Freetown, not in the Western Area after the events of February,
9 when people were going into houses, doors were being broken.
10:24:03 10 They were looking specifically for young girls, and there are at
11 least one or two instances where they said to the parents, "She
12 is my wife. If I come here I don't meet I'm going to kill you.
13 This one is my wife. So you have to make sure that I come back
14 and meet her. That when they advance." So it is at the very
10:24:23 15 first interaction that the word "wife" is used.

16 So this was why I mentioned that they only come to know
17 after about the others when they go now into the community in
18 which these people live. But it's the very first interaction,
19 invariably in the majority of the cases, that's where you are
10:24:39 20 identified as a wife and you are taken as a wife.

21 Q. Is it your testimony that every girl, or every woman who
22 was captured, according to you, was in fact made a wife?

23 A. No, no, no, no, no, I didn't say that. I didn't say that.
24 There were girls who were abducted and they were used to carry
10:24:57 25 loads. They were different. So it depends, the person who
26 captured, whether he likes you or not and he wants to take you
27 for himself. But other than that, even in the house in which it
28 is looted, it is the girls and the young boys that they put the
29 load on them, when they take the things, the things that they

1 take from the house and from neighbours. So they used them to
2 carry them. So it is not every girl that is captured is a bush
3 wife. They are used for different reasons.

10:25:25 4 Q. So was it the case that some rebels in fact chose their
5 wives much later in the bush from the non-bush wives?

6 A. Oh yes, in some cases, definitely.

7 Q. So in that case, these non-bush wives, who subsequently
8 becomes a bush wife, would have known the fact before; not so?

10:25:41 9 A. Oh, yes, because some of them have been bush wife before,
10 so their second time. So I mentioned that some of the people I
11 met told me that especially when your first husband dies, she
12 knows that she goes and does a lot of other things and she does
13 so somebody else comes. So, they tell you, "This is the second
14 person. He was the one who saved me." So definitely. So it's
10:25:58 15 not a general statement.

16 Q. You also said, according to you, every village in Kailahun
17 District has an ex-combatant?

18 A. Oh, yes, definitely.

19 Q. How did you come to that conclusion?

10:26:15 20 A. From talking to all of them, talking to the people who are
21 in Kailahun. And, like I said, I mentioned here yesterday,
22 Kailahun is the one district that I have visited more than all
23 the other districts in the country. And because you have a high
24 concentration of ex-combatants in Kailahun and they took the
10:26:32 25 country -- generally the district under their control for such a
26 long time it is very difficult, if not impossible, to meet any
27 place in Kailahun that you don't have one person who has served
28 in the war. That is one of the challenges. There are even
29 people, when I talk about those rebels, there are people who

1 stayed, young people who stayed behind and some of them said, "We
2 stayed to protect our place, our villages, because we couldn't
3 go. If we go, our villages could have been destroyed." So there
4 are young -- a certain percentage of young people who stayed, who

10:27:02

5 never left and, of course, they worked with the rebel. As I
6 mentioned here, that the phenomenon is as long as you are with
7 them, people insist that you are part of them. So, that's it.

8 Q. Did you visit every village in Kailahun?

9 A. I couldn't have visited every village. I visited the
10 majority of the chiefdoms. I didn't visit every village.

10:27:21

11 Q. Do you know how many villages there are in Kailahun
12 District?

13 A. I don't know.

14 Q. Do you know how many chiefdoms?

10:27:33

15 A. I can't remember off my head, but my human rights officer,
16 who is in Kailahun, I can specifically -- CGG human officer, I
17 can specifically say to you, there has not been any village he's
18 not visited in Kailahun District in the monitoring of his human
19 rights.

10:27:48

20 Q. Mrs Bangura, I put it to you that the marriages you
21 referred to as forced marriages which took place in the bush or
22 at the jungle, were mere relationships, social relationships.
23 They were never marriages.

24 A. Well, that's not how the girls see them, because the issue
25 of wife was used. The word "wife" was used. They will tell you,
26 "I was married." Even the communities, the stigmatisation --
27 when people come they tell you "this my rebel wife." And even in
28 Freetown, you know that in Freetown, that people are pointed and
29 they said, "This now junta wife". In Freetown here, people who

10:28:12

1 had relationship, they point fingers to them and say, "This now
2 junta wife". That is referring to the AFRC.

3 Q. I also put it to you that a marriage without consent is not
4 a marriage.

10:28:42 5 A. Well, that's why I said -- that's why I used the word
6 "forced". I used the marriage to describe the relationship, what
7 takes place, what a wife does, which you are expected to do
8 within that relationship. And you go into that relationship by
9 force, you don't go there with your consent. So this is why I
10:29:00 10 described in my report, I specifically spelt out what she is
11 expected to do, which is basically what a wife is expected to do
12 to her husband. This is why, when I talk about force, I put the
13 inverted comma, which is against your will.

14 Q. Do you consider a marriage without consent as a marriage?

10:29:20 15 A. If the person says it is so, that's why they talk about --
16 you mentioned here about taptomi. This is why people look at
17 those ones as if they are married, because you are expected to do
18 certain -- because if you are not under obligation, if you do not
19 become a wife to do certain things.

10:29:36 20 Q. I'm directing the question to you as an expert on this
21 question of forced marriages. Would you, as an expert, consider
22 marriage in which consent is lacking as a form of marriage?

23 A. Oh, yes, because they are expected to do the things of a
24 wife, which you are told to do and which you have to do under
10:29:58 25 question. You don't have an option.

26 Q. Mrs Bangura, I'm putting it to you the term or the phrase
27 "forced marriage" is a flat contradiction in terms.

28 A. If you say so. That's your own opinion.

29 Q. In other words, I'm saying --

1 A. It's a statement of opinion.

2 Q. I'm saying any relationship that is forced cannot be
3 marriage.

4 A. If you say so, that's your own opinion.

10:30:38 5 Q. Finally, Mrs Bangura, you prepared this report in 2005; not
6 so, this year?

7 A. Yes.

8 Q. Before you prepared the report, sometime in 2004, in
9 fact, May 2004 the Special Court had created a new offence that
10 bordered on forced marriages; not so?

11 A. Yes.

12 Q. So your research into this exercise came after the Court
13 has made forced marriage a crime against humanity; not so?

14 A. Putting it, yes.

10:31:20 15 MR FOFANAH: In that case, I have no further questions,
16 thank you.

17 PRESIDING JUDGE: Thank you, Mr Fofanah. Mr Graham, any
18 questions of the witness?

19 CROSS-EXAMINED BY MR GRAHAM:

10:31:35 20 Q. Good morning, Madam Bangura.

21 A. Good morning.

22 Q. I have a few questions here for you. I'm first going to
23 ask you questions in relation to the methodology of your expert
24 report, if you bear with me.

10:31:43 25 A. Thank you.

26 Q. You have a copy of your report?

27 A. Yes, please.

28 MR GRAHAM: Your Honours, I'm referring to Registry page
29 14482 of the expert report.

1 THE WITNESS: What page of the report?

2 MR GRAHAM:

3 Q. Page 7 of the report, basically the penultimate paragraph,
4 line 1, which reads as follows, "The primary forces included in
10:32:23 5 the semi-structured interviews" --

6 THE INTERPRETER: Your Honour, could counsel go much
7 slowly? Please take that again.

8 PRESIDING JUDGE: Have you heard the interpreter? He's
9 asked if you would go more slowly, please. Perhaps if you start
10:32:37 10 again at the beginning.

11 MR GRAHAM:

12 Q. I was referring to page 7 of the expert report, basically
13 the penultimate paragraph and I'm reading from the first line,
14 which reads as follows: "Primary sources included in the
10:33:03 15 semi-structured interviews with 28 bush wives from villages
16 outside of Kailahun Town." Madam Bangura, can you tell us what
17 you mean by semi-structured interviews?

18 A. That is a terminology, you know. Basically, it's not like
19 an interview where you put a question paper where people -- we do
10:33:36 20 surveys. This is a question, well, you sit with the people and
21 you talk to them. You know, you ask them questions, because
22 normally if you go out and do surveys, you do questionnaire and
23 you take it bit by bit and they answered it. Sometimes, it's one
24 of them, and sometimes it's one or two of them.

10:33:53 25 Q. Thank you. Madam Bangura, I will also refer to, I think,
26 the same page, page 7 of your expert report. This time paragraph
27 5 of the report, which I will read. It reads as follows, reading
28 from the second line:

29 "The secondary data was collected from archived monthly

1 human rights reports from Campaign For Good Governance,
2 reports from Human Rights Watch, reports from Forum of
3 Conscience, research reports, working papers, as well as
4 Internet sources."

10:34:32 5 Madam Bangura, it is your case that these were your key
6 sources of research for your expert report; is that right?

7 A. Yes, yes, yes.

8 Q. Then if I may go back to page 22 of the expert report,
9 which is Registry 14497. What you have here is a list of the
10:34:58 10 references that I presume you relied on?

11 A. No, some of the references, not all of them.

12 Q. That is exactly my point. Is there any reason why you did
13 not include the list of your references on page 22, the list of
14 your key references that you relied on?

10:35:16 15 A. Not really, because I knew if they asked me I could name
16 them in the document I have with me.

17 Q. So you agree with me, to that extent, the report is
18 incomplete in so far as your list of references is concerned?

19 A. This is why I said general research papers. I added, and I
10:35:33 20 specifically spelt out -- the ones I spelt out, you saw the name
21 Human Rights Watch, Forum of Conscience. I write the specific
22 document I used, and then I said research report. So you could
23 see there is much more reports than that, than the ones I
24 labelled here.

10:35:52 25 Q. What I'm trying to find out is if there is any reason why
26 you decided to leave out those key references?

27 A. No, I didn't, because I thought after mentioning them here,
28 if they do cross-examination, I could bring them with me in
29 Court, which I've done, or I can actually give the names and

1 somebody can go and look at them.

2 Q. Madam Bangura, in your prior testimony before this Court
3 yesterday, you did indicate that the word "rebel" was used
4 generally to refer to both the RUF and the AFRC rebels; is that
10:36:28 5 right?

6 A. It was interchangeably used.

7 Q. I also believe you went on further to draw a distinction
8 that you heard the AFRC rebels being referred to as the AFRC
9 junta, or the junta rebels; is that right?

10:36:43 10 A. AFRC junta; junta rebels; rebel junta. When somebody uses
11 that word, then, you know, invariably, even though have you to
12 confirm he's referring to the AFRC, and when he uses RUF rebel,
13 he's referring. There are some cases, where they do, even in the
14 Lome Peace Agreement, you can see they write AFRC/RUF. That tell
10:37:05 15 you AFRC/RUF, the person doesn't seem to know, he's just
16 combined, because in some cases, there is confusion who is who.

17 Q. Madam Bangura, did your expert report, determine the
18 percentage of the bush wives you interviewed that were abducted
19 by the RUF or the AFRC?

10:37:27 20 A. No.

21 Q. Why no?

22 A. Because that's why I - if you look at the reports, I made
23 sure when this was abducted by the AFRC, or this was abducted by
24 an RUF. So not in every cases, at least I tried to specify
10:37:45 25 there.

26 Q. I will refer to page 14 of the expert report, which is
27 Registry 14489. Here you have a list of some of the
28 interviewees, the abductees. I think if you are reading from
29 paragraph 4, it indicates that the first, SKA, was abducted by an

1 RUF rebel ?

2 A. Yes.

3 Q. If you move on to the next paragraph, it talks about FY90,
4 if I am right, was also abducted by an AFRC junta rebel ; is that
10:38:35 5 right?

6 A. Yes.

7 Q. Then you go on to the next paragraph, which also talks
8 about ZGK, who was also abducted by an RUF rebel ; is that right?

9 A. Mmm-hmm.

10:38:47 10 Q. Moving on to the next paragraph, you talk about HRS, but
11 there's no --

12 A. There is junta there.

13 Q. It talks about junta, that is also AFRC; is that right?

14 A. Yes.

10:39:03 15 Q. Then you go on to YYY, but then there is no indication as
16 to whether she was abducted by an RUF or AFRC rebel ; is that
17 right?

18 A. No.

19 Q. Then we go on further to BAK, who was also abducted by the
10:39:19 20 RUF, I believe.

21 A. Mmm-hmm.

22 Q. Then you also have JSM, who was also abducted in Makeni
23 Town in 2000.

24 A. Mmm.

10:39:30 25 Q. There is also no indication whether she was abducted by the
26 AFRC or the RUF; is that right?

27 A. Yes.

28 Q. Then you move on to ABA?

29 A. Mmm.

1 Q. Who, I believe, was also abducted by an RUF rebel?

2 A. Yes.

3 Q. I'm saying that even just looking, is it fair for me to
4 conclude from the short profile that we have here that a higher
10:39:53 5 percentage of the abductees were abducted by RUF rebels?

6 A. It depends on the area where they come from, the area you
7 talk to.

8 Q. I'm basing my statement on the reported information --

9 A. I think the essence is whether the practice was done by the
10:40:10 10 RUF and the AFRC. It's not a matter of percentage. It's whether
11 it was applied. If you take -- for example, when you talk about
12 child combatants, if you ask the CDF, they will tell you, "We
13 didn't have child combatants." That's what they say. When you
14 look at every group, you will know that what is specific about
10:40:33 15 it. Here, my essence is whether it was something that was done
16 by the groups and who did it. It is not a percentage for me to
17 say who did it, what and who, what. I wasn't doing that. I just
18 wanted to establish a fact that it happened and it happened
19 across the board. So my report was not to find out who did the
10:40:50 20 highest level of abduction or who did the highest level of forced
21 marriage. So I wasn't into that, then I could have done a
22 percentage of it, but I didn't do that.

23 Q. Mrs Bangura, I believe also in your report it is fair to
24 state that you made it very clear that the major problem that was
10:41:14 25 faced by the bush wives was one of rejection by their
26 communities; is that right? Madam Bangura, did you conduct a
27 survey of public opinion in the Kailahun District as to the
28 public perception of bush wives?

29 A. Yes. That was not for this report. Because one of the

1 first complaint I encountered with the bush wives who stayed in
2 Kailahun, she they gave me when I went for the UNDP complaint,
3 was the fact that when they arrived, they had occupied people's
4 houses and when the people came, they threw them out of their
10:41:47 5 houses. So even the people in the community were telling them,
6 "You are rebel wives," you know. So it was a big complaint among
7 them. It was an issue that was designed to be dealt with. The
8 community really and truly doesn't want them. I had to talk to
9 some of the elders in the community to find out the perception
10:42:08 10 about them. They told me that among the returnees, the Guineans
11 are the hostile ones. It is something I had to explain to UNHCR,
12 to explain why Guineans, people who are returning from the
13 refugee camp in Guinea, are more aggressive and hostile than
14 those who were coming out from Liberia.

10:42:25 15 Of course, UNHCR came to explain is because of the Guinean,
16 the way they do things, their mentality, their behaviour,
17 everything. So this issue of their relationship with the
18 community came out not in the study, but right from the beginning
19 when I was working for UNHCR and UNDP because in designing the
10:42:43 20 community empowerment program, it means you have to design a
21 program that embraces the whole community.

22 Q. Unfortunately, Madam Bangura, I have to limit and restrict
23 myself only to the contents of your report I have here with me.

24 A. Thank you.

10:42:56 25 Q. The scope of my question is limited to the contents of the
26 report.

27 A. I knew, yes.

28 Q. So it is fair --

29 PRESIDING JUDGE: Mr Graham, I notice it's the time we

1 usually have a break. Would this be a convenient time in your
2 questioning?

3 MR GRAHAM: Yes. Your Honour.

4 [Break taken at 10.46 a.m.]

11:00:46 5 [Upon resuming at 11.00 a.m.]

6 MR GRAHAM:

7 Q. Mrs Bangura, before we took the short recess I think we
8 were discussing -- I asked the question on the issue of whether
9 you had conducted a survey of public opinion from the communities

11:03:50 10 where the interviews were conducted. Your answer was no, that
11 that had not been done in the district in Kailahun.

12 A. In district for this report.

13 Q. Yes, for this report.

14 A. Yes.

11:04:04 15 Q. Also for this report, I need to find out whether you
16 conducted a survey of public opinion in Makeni or any of the
17 other areas apart from Kailahun?

18 A. Well, you can't talk about that in Makeni, a lot of the
19 other areas. I mentioned in the report that because of the
11:04:19 20 stigmatisation, which is more intense in the other countries,
21 it's not an issue that people like to discuss. Because in this
22 district --

23 Q. I'm sorry, I think that -- let me rephrase.

24 A. Rephrase it, okay.

11:04:33 25 Q. I said I was talking about the issue of public opinion.

26 A. Okay.

27 Q. And one issue that I think is very clear in your report is
28 the fact that one of the major problems that was faced by the
29 bush wives was one of rejection by their communities. And as a

1 follow-up, I had asked whether you had conducted a public opinion
2 survey of Kailahun to determine whether these were actual
3 perceptions held by the community insofar as the bush wives were
4 concerned.

11:05:00 5 A. I said it's a perception, very common, but I did not do
6 that discussion, discuss it here on this. It is something that I
7 had come across during my previous visit.

8 Q. So I'm fair in saying that insofar as this report is
9 concerned, the issue of rejection of bush wives by the
11:05:19 10 communities is strictly that from the perspective of the bush
11 wives so far as this report is concerned and there is no
12 scientific basis at all.

13 A. Nobody did a survey. But it's when they experienced the
14 experience on a personal -- I'm talking to them why they
11:05:36 15 returned. Cause like I said, because a lot of them were, for
16 example, in Kailahun, you talk to them, "Why didn't you go back?"
17 And some of them, of course, told that "we went and we came
18 back." It is out of this discussion that I realised, for
19 example, if you look at the percentage from the district where
11:05:54 20 they come from, this is why I mentioned that Pujehun is one
21 district that is very hostile to people who have been involved in
22 the war, and so you find out they couldn't, but they can talk
23 about that in Kailahun. But in areas because of the
24 stigmatisation, how scared, people don't want to talk about it.

11:06:14 25 They refuse to discuss.

26 Q. My question still remains. So far as this report is
27 concerned, the issue of rejection of bush wives by the
28 communities, as told in this report, is only strictly from the
29 perspective of the bush wives.

1 A. No, no, no. When I spoke to her, I told you that I spoke
2 to some -- for example, like in Makeni, I spoke to the paramount
3 chiefs. They are still very hostile. They know that from the
4 first reaction, if I don't want to even specify about bush wife
11:06:46 5 alone, I did mention the instance here, even people they call
6 collaborators, and I mentioned personal experience that even with
7 me, I have two cousins I can trace. One came back and
8 disappeared with her daughter, who she left during the war, and
9 nobody knows where, I can't even trace her. Even in the course
11:07:05 10 of my work, I haven't been able to trace her. So it is the
11 community itself. When you talk to individual people, they don't
12 want to talk about it. Even their own mothers, they pretend
13 those children don't exist. They don't want to talk about it.
14 Q. I believe that you still have not answered my question,
11:07:22 15 Madam Bangura.
16 A. The perspective is talking to people, ordinary people, and
17 it's living in Sierra Leone. So, for the purpose of this report,
18 I spoke to bush wife and other people. But as a Sierra Leonean
19 who travels the length and breadth and work on additional issues
11:07:40 20 out of this report, you know exactly what is the situation in the
21 country.
22 Q. So, I'm right in saying that is your personal opinion.
23 A. Yes, of talking to other people, definitely.
24 Q. So to that extent, there is no scientific basis in this
11:07:55 25 report for us to accept the fact that they were actually rejected
26 by their communities.
27 A. I did this report based on the information I have
28 available. So the report is not a scientific report, because I
29 didn't do surveys. A diagnosis study, I didn't do it.

1 Q. Okay, we'll move on.

2 A. Thank you.

3 Q. Madam Bangura, you are dedicated and committed to the cause
4 of women's rights and emancipation issues; is that so?

11:08:18 5 A. Yes, please.

6 Q. And you know about the TRC?

7 A. Yes.

8 Q. Can you briefly tell us why the TRC was set up?

9 A. Well, it's one of the preconditions of the Lome Peace
11:08:28 10 Agreement. When the agreement was signed, there are specific
11 institutions and structures that needed to be set up, and the TRC
12 was one of it. Because to be able to sign agreement, the -- it
13 is important for us as a country to ascertain what happened
14 before the war and why, actually, the war happened, to do an
11:08:55 15 historic analysis of the war, so that at the end of the day we
16 could not go through that process again.

17 Q. Thank you. So to that extent you would agree with me the
18 objects of the TRC, either directly or indirectly, would
19 positively impact women's human rights issues, at the very least
11:09:16 20 so far as it creates a platform to discuss the suffering that
21 women in Sierra Leone went through during the war years?

22 A. Yes, it did.

23 Q. Yesterday my learned friend asked of you whether you were
24 interviewed by the TRC as an expert. Your answer was that you
11:09:35 25 refused.

26 A. They wrote me a letter; I never responded.

27 Q. Is there a reason why you refused?

28 MS PACK: Your Honours, this isn't a relevant line of
29 questioning in my submission. The report wasn't about the TRC.

1 It was about the issue of forced marriage and whether or not
2 Mrs Bangura testified on that Commission is of no relevance, in
3 my submission.

4 PRESIDING JUDGE: Mr Graham, you have heard the objection.

11:10:01 5 MR GRAHAM: Yes, Your Honour. I believe we've heard to a
6 great extent from Madam Bangura the fact that she is a promoter
7 of women's rights. Also in her resume we have a litany of
8 activities that I think she has undertaken in the past, always
9 promoting the cause of women's rights. I asked an earlier
11:10:24 10 question which she answered in the affirmative, that she would
11 agree with me that the objects of the TRC, either directly or
12 indirectly, positively impact issues of women's rights insofar as
13 it creates a platform for the suffering of women in Sierra Leone
14 to be discussed, and she also agreed.

11:10:41 15 Your Honour, my point is that both the Special Court and
16 the TRC are institutions which are geared towards trying to
17 achieve some form of justice from the war. Your Honour, if Madam
18 Bangura has decided to come here today before the Special Court,
19 indeed, she has gone through the task of preparing an expert
11:11:00 20 report, I think it is fair to know why she did not appear before
21 the TRC. That is just simply --

22 PRESIDING JUDGE: Why is it fair to know that?

23 MR GRAHAM: Your Honour, as I said earlier --

24 PRESIDING JUDGE: It is a question about her personally.

11:11:14 25 We are dealing with the report. Why is it fair we should know
26 that?

27 MR GRAHAM: Your Honour, I'm saying that the witness has in
28 no uncertain terms stated a commitment to women's rights in
29 Sierra Leone, and I believe that --

1 PRESIDING JUDGE: And that's the reason --

2 MR GRAHAM: -- the TRC is also an institution, as I said,
3 that in one way or the other, is also, by way of its activities,
4 going to promote the issues of women's rights insofar as it
11:11:35 5 creates a platform for these matters to be discussed. So indeed,
6 Your Honour, I think it is fair to know, at least so far as the
7 issue of motive is concerned, why she would prefer to be here
8 before the Special Court today on not even, on one hand also to
9 refuse to appear before the TRC.

11:11:59 10 PRESIDING JUDGE: Thank you.

11 [Trial Chamber conferred]

12 PRESIDING JUDGE: The objection is upheld. The question is
13 not allowed.

14 MR GRAHAM: Thank you. I will move on.

11:13:02 15 Q. Madam Bangura, are you for or against military overthrow of
16 constitutionally elected governments?

17 MS PACK: Your Honour, this isn't a relevant question on
18 the issue of forced marriage. It's not a relevant question for
19 this witness.

11:13:25 20 PRESIDING JUDGE: I will just record it first and then I
21 will take the reply. Yes, Mr Graham, your reply.

22 MR GRAHAM: Yesterday in Madam Bangura's testimony, if I
23 may refer to the draft transcript of yesterday's proceedings,
24 particularly page 86 from lines 15 to 24. Madam Bangura talks
11:13:54 25 about the kind of relationship she had with Johnny Paul Koroma.
26 Your Honours, if I may read, with your permission -- I think it
27 is page 86 of the draft transcript, lines 15 to 24. She says:
28 "If you ask the people who are defending the AFRC, they will tell
29 you that my job, I took a position because it was wrong to remove

1 the government. When they came back, I was one people who gave
2 them more support than any other group in this country. When
3 Johnny Paul Koroma was appointed as a chairman of that
4 commission, it was my office that actually provided every little
11:14:47 5 working material he needed in his office. I worked with him; I
6 sat with him; and I provided support and linked him up with every
7 individual. So whenever a big person is coming, whether he
8 is" -- it's indiscernible -- "or anybody else, I will sit with
9 him and talk to him and try to highlight him or his problems."

11:15:09 10 That is the way the transcript reads.

11 Your Honour, I think this is relevant in this regard,
12 principally because it is clear from the background of
13 Madam Bangura that she is a pro-democracy activist. In a sense,
14 it raises contradictions as to why she would want to associate
11:15:29 15 and collaborate with Johnny Paul Koroma. That is exactly the
16 issue. This is just -- I'm building up to some follow-up
17 questions in relation to that which will arise out of this very
18 specific --

19 PRESIDING JUDGE: Your question, Mr Graham, as I heard it
11:15:51 20 was: are you for or against military overthrow of a
21 democratically elected government. Well, that is a worldwide --

22 MR GRAHAM: Thank you, Your Honour. I will rephrase the
23 question.

24 PRESIDING JUDGE: Rephrase it. If it is necessary to give
11:16:02 25 a ruling, I will consult with my learned colleagues.

26 MR GRAHAM:

27 Q. Madam Bangura, did you support the overthrow of the Kabbah
28 government by the AFRC in 1997?

29 A. How could I have?

1 Q. I take that to mean no?

2 A. I couldn't because I was not even aware. Even if I were, I
3 couldn't have supported it.

4 Q. I don't mean support prior to the coup. I mean once it was
11:16:23 5 announced that the coup are taking place?

6 A. The coup is illegal. It's illegal.

7 Q. So your position is that you don't support -- you did not
8 support the AFRC?

9 A. I don't support bad governance. I campaign against bad
11:16:37 10 governance; I campaign against one-party rule; I campaign against
11 military dictatorship. Because my principles are good
12 governance. Those are values and principles I hold. So
13 irrespective of whether you are a democratically elected
14 government, if you do not practice the principles of good
11:16:57 15 governance, I do not support you.

16 Q. I think my question is answered.

17 A. Thank you.

18 Q. Madam Bangura, I will go back again to your testimony
19 yesterday. I think yesterday in your testimony you said you
11:17:04 20 raised money for the radio station that was being used to
21 broadcast messages from exile to Freetown.

22 A. Yes, Radio Democracy.

23 Q. That is the name of the radio station?

24 A. Radio station, yes.

11:17:14 25 Q. Madam Bangura, can you tell us the kind of messages that
26 were broadcast on this radio station?

27 A. Well, I didn't listen to the radio station, because it
28 wasn't broadcast in Guinea. But we trained youth. I mentioned
29 yesterday if it was recorded, on peace building and conflict

1 resolution. We broadcast -- in my office, CGG, which campaigned
2 for good government, which we opened in Guinea. The radio
3 station was basically to inform citizens here what we were doing
4 out of Sierra Leone. That was the reason why in Guinea in exile,
11:17:48 5 the effort we were doing, and the lobbying and the advocacy, we
6 were so they become aware that the government was just not run
7 and left to them, especially those who stayed behind. So a lot
8 of what we did was -- I spoke on the radio station myself and
9 basically was talking about what I was doing, the effort I was
11:18:07 10 doing travelling across the country, lobbying other governments
11 to make sure that the government returns to power.

12 Q. Okay. Did you ever at any point in time propagate any
13 messages yourself?

14 A. I told you, yes. I spoke. I did add my voice because
11:18:21 15 everybody knows my voice, so I didn't disguise my name.

16 Q. Madam Bangura, is it true that a lot of civilians were
17 killed as a result of misinformation from the radio station under
18 reference?

19 A. I wasn't operating the radio station. I wasn't living in
11:18:44 20 Freetown. Even in Guinea, I had listed because I travelled the
21 length and breadth of the world trying to campaign.

22 Q. Did you have any knowledge of the fact that a lot of
23 civilians were killed, allegedly by bombs dropped by ECOMOG Alpha
24 Jets, as a result of information given from this radio station?

11:19:02 25 A. What I know for a fact, that citizens who they found out
26 listening to these radio stations were killed because the radio
27 station was illegal. Everybody thought you shouldn't. So I know
28 for a fact that people who listened to the radio station were
29 killed, and I know ECOMOG was fighting on behalf of the

1 government. So both sides were attacking each other. When it
2 comes to that, you cannot specifically blame anybody. For me, I
3 know ECOMOG was attacking. I know several efforts were made to
4 attack Lungi airport where the radio station was, and a lot of
11:19:35 5 people were killed in the event. So ECOMOG also retaliated. It
6 was a war. So, for me, I didn't take any statistic studies of
7 who or where they were killed. These were rumour. You hear here
8 that your colleague said that I was on a naval boat, and this was
9 something that was written in a newspaper in this country.

11:19:55 10 Knowing Sierra Leone as you do, it's not always you take things
11 literally when you hear them. Of course they were rumour, but I
12 never verified any of those rumours. I cannot say to you it was
13 a statement of fact. So even the ones they say people were
14 killed because they listened to the radio, I couldn't verify
11:20:14 15 them. So I can't come out and say these were true, because I
16 wasn't there, I wasn't in the country; I was out.

17 Q. Thank you. Is it also true, tell me if it's not, that you
18 announced over this radio station that all women of Freetown
19 should come out in the streets holding their sticks, kitchen
11:20:35 20 utensils, to fight against any person suspected of being a junta
21 or rebel collaborator; is that so?

22 A. No, this was not on the radio. This was in December 1998
23 when Freetown was under siege, so it wasn't on the radio.

24 Q. This was 1998?

11:20:50 25 A. This was February -- this was January. Sorry, December
26 1998 when the entire country had been circled and Freetown had
27 been circled and the rebel had arrived as far as Waterloo. So
28 Freetown was under siege and we knew definitely that we were
29 going to be attacked. That was when I made a statement. So it

1 wasn't on the radio station. This was carried by other radio
2 stations.

3 Q. But the statement was made and it was carried on radio?

4 A. Of course. I told everybody to defend themselves. Because
11:21:18 5 by then, you have to remember after 1997, half of the army or a
6 large majority of the army had gone into the bush, so the Sierra
7 Leone government did not have an army. They were being protected
8 by ECOMOG. We realised by then, that even with ECOMOG, they
9 couldn't. So I said everybody to defend themselves, so you don't
11:21:36 10 have to wait until you are killed.

11 Q. Yes, to defend themselves as well as to fight against and
12 attack anyone suspected of being a junta or rebel collaborator?

13 A. Not suspected of being a junta. I said we will defend
14 ourselves. If they tell you the truth, they would tell you that I
11:21:51 15 said we will fight with sticks and everything and, if they come,
16 we will fight them. So whoever gave you that, they didn't give
17 you the right recording. That was exactly my word I said.

18 Because I remember when we were training the AFRC in the
19 Lighthouse, all the commanders of the AFRC, sometime in 1999, it
11:22:12 20 was one of the things they held against me when there was a
21 problem in Freetown. One of them said, "You were the one who
22 said you will have sticks and other things to challenge us, so
23 when we get you, we will get at you." So I didn't say they
24 should attack them. I said, "If you're attacked, you defend
11:22:29 25 yourself," and we are ready and fight. If we don't have soldiers
26 we will fight ourselves.

27 Q. They never had the opportunity to defend themselves with
28 their sticks and kitchen utensils?

29 A. How can they defend when about 7,000 of citizens were

1 killed, houses were burnt? We couldn't. You can't fight when
2 you have guns and everybody attacking you, when 70 per cent of
3 the city was in flames.

11:22:50 4 Q. Thank you, Madam Bangura. I think I am going to move on to
5 the issue of collaborators, referred to briefly yesterday.

6 A. Thank you.

7 Q. Madam Bangura, am I right that in your testimony yesterday
8 you did indicate that people were attacked simply because they
9 were classified as collaborators of the junta or AFRC regime; is
11:23:11 10 that right?

11 A. I mentioned that in relation to the stigmatisation and the
12 fear that the first bush wives had. I said one of the reasons
13 why they were so afraid was because here, after the war, even if
14 you were labelled as a collaborator, you can see what happens to
11:23:27 15 you and the way the society reacts to you. So anybody who is
16 associated with a rebel is -- the community reacts to you very
17 violent. It is out of that fear that these girls who had stayed
18 in the bush with the rebels were afraid to come back. This is
19 the difference I mentioned between somebody who is being raped
11:23:46 20 and somebody who has been taken as a wife. So, it is within that
21 context that your association with the rebel normally leads to
22 death and I gave the example of just ordinary citizens who were
23 called collaborators.

24 Q. Who were killed as a result of them being classified as --

11:24:04 25 A. Oh, yes, definitely.

26 Q. But you agree with me, Madam Bangura, that the issue of
27 collaborators was a two-way traffic in the sense that you also
28 had AFRC and junta supporters who were classified as
29 collaborators, who were also killed by pro-government supporters;

1 is that right?

2 A. Of course.

3 Q. Madam Bangura, do you, per chance, know one Imam Basharia
4 who was a Chief Imam of Sierra Leone sometime back?

11:24:35 5 A. Yes, we worked with him before Freetown was attacked. He
6 was part of the civil society movement.

7 PRESIDING JUDGE: Could I have the name, Mr Graham, please?

8 MR GRAHAM: I'm sorry, Your Honour. It is Imam, I-M-A-M,
9 and Basharia, I think, if I am right, is spelt B-A-S-H-A-R-I-A.

11:25:02 10 PRESIDING JUDGE: Thank you.

11 MR GRAHAM:

12 Q. Do you know what happened to this imam?

13 A. I wasn't in the country, but that's what they told me, that
14 he was killed.

11:25:11 15 Q. He was killed by who?

16 A. I -- didn't give me a name, but they said he was killed
17 because he was identified as a collaborator.

18 Q. A collaborator of?

19 A. Of the rebel.

11:25:21 20 Q. He was killed because he was deemed to be a junta
21 collaborator?

22 A. He was killed because he was associated with having a
23 relationship with the rebels.

24 Q. Do you also recall or have any knowledge about this name
11:25:34 25 Chief Abu Black?

26 A. Yes.

27 Q. Was he per chance a Temne tribe chief?

28 A. He was a tribal head man, not a chief. This is the
29 difference, tribal head man in the Western Area.

1 Q. Thank you. Do you also know what happened to him during
2 the war?

3 A. Yes.

4 Q. What?

11:25:52 5 A. He was also killed.

6 Q. Why was he killed?

7 A. Because -- yes, I think he defended. In his case, he
8 defended the rebel.

9 Q. He was killed because he was an AFRC collaborator?

11:26:02 10 A. Yes.

11 Q. Thank you. Madam Bangura, I'm going to go back to the
12 issue, a little bit, about your methodology, used in preparing
13 your report. You had said earlier in your testimony that you had
14 staff throughout the 12 districts in Sierra Leone who were
11:26:30 15 conducting interviews and compiling information on human rights
16 violations; is that right?

17 A. Yes. I had, during the war, and in cases where they had to
18 evacuate, for example, the Kailahun person came to Kenema and
19 stayed; the Tonkolili person was in '91 -- within those period in
11:26:48 20 which they couldn't have access, we had people behind the lines
21 who were bringing the reports to us. So that, on a continuous
22 basis, we knew what was happening. So even in the -- where we
23 didn't have our money. So we had more than 12 people in the true
24 sense of the word.

11:26:21 25 [AFRC040CT05C-SV]

26 Q. But your staff were not deployed in this district during
27 the war time, were they?

28 A. They were not deployed in the capital, but they were
29 deployed in the district. For example, in Tonkolili District, it

1 should have been in Magburaka, but he couldn't be in Magburaka.
2 He was in 91, which is still Tonkolili District, and we had to
3 have somebody who was behind in Magburaka. So we had two people
4 in the Tonkolili. In Kenema, he invariably was in Daru because
11:27:34 5 he had to be airlifted back and forth. So he had to identify
6 people who were behind in Kailahun Town who could actually have
7 access to come to him. So most of them were still based in there
8 with the exception, for example, the person in Makeni, because
9 Makeni was at one time was entirely encroached by the AFRC and
11:27:52 10 later by the RUF. So none of the towns in Makeni was actually
11 accessible to governments. But at any particular time we had
12 somebody in the district.

13 Q. Madam Bangura, would you, in any form or manner, consider
14 yourself an authority on tribal marriages in Sierra Leone?

11:28:17 15 A. Well, I am very knowledgeable about it. I cannot be an
16 authority because authority is normally the chiefs and other
17 people. But because of my background, where I come from and my
18 family background and everything, I think I have a lot of
19 knowledge about it and I can safely talk about it in a very
11:28:38 20 comfortable way. And because during the course of my work in
21 CGG, we did consultations across the country several times. And
22 in every community I go, as I travel along the country, because
23 of the customs in Sierra Leone, you normally have to go to the
24 chief before you start talking. And because I come from a
11:28:58 25 chieftaincy house in the north, so whichever chiefdom I go to the
26 north, I know them, I introduce myself and I know them. So I'm
27 sort of very conversant at the tradition, what are the customs
28 and regulations when it comes to custom because I grew up, my
29 background -- I grew up in a chief's house.

1 MR GRAHAM: Your Honours, just one second. I'll consult
2 with my learned friends.

3 [Defence counsel conferred]

4 Q. Madam Bangura, you agree with me that the phrase "forced
11:29:55 5 marriage" is a new phenomenon?

6 A. Well, it's been mentioned -- well, not forced marriage,
7 forced wife. It's mentioned in different literature now after
8 the war when people write or during the course of the war. So we
9 didn't have anything because people didn't look at it. Forced
11:30:21 10 marriage, like one of your colleagues was saying, when a marriage
11 is arranged, you don't think of it as forced marriage. You think
12 of it as a marriage between two families.

13 Q. Madam Bangura, I am fair if I say that your report was
14 prepared purposely -- was prepared purposely for the Office of
11:30:45 15 the Prosecution in order to facilitate, you know, or to provide
16 grounding for a very significant count in the indictment which is
17 the issue of forced marriages?

18 A. I had worked with the Court right from the beginning. I
19 had lobbied and whatever it was as well as working with the
11:31:16 20 Security Council, and I think because of my knowledge and
21 experience and expertise it's something that we had discussed
22 with several people around, and because they know that I have the
23 experience and knowledge, they wanted me to make them understand.
24 So for me it's basically writing my own experience and knowledge
11:31:39 25 to be able to make people involved in the Special Court to
26 understand something which they keep hearing about. It comes up
27 in the Court and so they need to understand what it means, how it
28 works and what has happened during the war. So for me it's not
29 an issue of Prosecution or process; it's an issue of educating

1 people and getting them to understand this thing is happening.

2 So I think it's an extension of what the role I have been
3 doing in Sierra Leone in meeting people and talking to them and
4 telling them what is happening in Sierra Leone and getting them
11:32:13 5 to understand right from the secretary-general of the United
6 Nations to everybody that comes in this country. So it's the
7 thing I have always done. So when somebody asks explain it to
8 you and says, "Well, in this case why don't you put it in writing
9 so it makes us understand." So it's not an issue of Prosecution
11:32:29 10 or not. For me it's an issue for educating a group of people who
11 have come to work in Sierra Leone to be able to understand the
12 context in which they're working.

13 Q. Thank you, Madam Bangura. You agree with me that you stand
14 tall so far as the women's rights movement in Sierra Leone is
11:32:48 15 concerned?

16 A. It's a matter of opinion. I think I'd rather not accept or
17 deny that.

18 Q. Madam Bangura, you also in your prior testimony indicated
19 that you had received different form of funding from the UN and
11:33:02 20 other organisations to promote the cause of women's right in
21 Sierra Leone; is that right?

22 A. I don't think I've received funding from the UN. I've been
23 asked to be a consultant with the UN. I've received funding from
24 different organisation, not through the UN specifically.

11:33:17 25 Q. But you have received funding from other international
26 organisations for women's rights in Sierra Leone; is that right.

27 [Overlapping speakers]

28 A. Oh, yes.

29 Q. Madam Bangura, were you paid by the Office of the

1 Prosecution for preparing this report?

2 A. I am sure everybody who is in this Court is paid. My
3 service I'm sorry unfortunately to tell you --

4 Q. Will you just answer --

11:33:39 5 [Overlapping speakers]

6 A. Yes, everybody here is paid.

7 Q. That is not my question. My question is whether you were
8 paid for the report?

9 A. Of course I was paid. Because I provided a professional
11:33:48 10 service. My service is very expensive unfortunately.

11 Q. I realise that.

12 A. Thank you.

13 Q. Can you give us an indication as to how much you were paid?

14 A. No, I think that's too personal for me. I'm sorry.

11:34:02 15 MR GRAHAM: Your Honours, I don't think I have any further
16 questions for this witness. Thank you.

17 PRESIDING JUDGE: Thank you, Mr Graham.

18 Re-examination, Ms Pack?

19 MS PACK: No re-examination, Your Honour, but simply the
11:34:14 20 question of admission of the report. I would seek now to have
21 the report admitted in evidence. As Your Honours will recall,
22 it's been marked for identification. It's been extensively
23 cross-examined on by counsel for the accused and, in my
24 submission, it would be appropriate now to admit it.

11:34:31 25 MR KNOOPS: Your Honours, we maintain our objections and in
26 addition to --

27 JUDGE SEBUTINDE: Mr Manly-Spain, we are hearing your voice
28 over the submissions. It's not very polite.

29 MR KNOOPS: Your Honours, my learned colleagues from the

1 Defence and myself, we maintain our objections as to the
2 tendering of the report. In addition to the four grounds already
3 elaborated on by the Defence during the start of the
4 examination-in-chief, it's fair to say, at least that's the
11:35:20 5 interpretation from the Defence, that based on the
6 evidence-in-chief and the cross-examination, the overall
7 qualification of the report which is sought to be tendered by the
8 Prosecution is, in our humble submission, a more personal opinion
9 and account on how the expert witness perceives or interprets the
11:35:57 10 phenomenon of forced marriage rather than evidence of facts. I
11 think what was very enlightening was the last answer of the
12 expert witness on the last question of my learned colleague,
13 Mr Graham, in which he said the report was also meant to write
14 down my own experience. It was at least what I quoted from her
11:36:21 15 last answer.

16 In this regard, it's therefore, in our submission,
17 questionable whether the report as it stands now and is
18 cross-examined by the Defence fulfills the requirements of an
19 expert witness report. We have noted, Your Honours, that the
11:36:41 20 report has no scientific or statistical foundation as to the
21 scope of forced marriage and, secondly, it has no scientific
22 foundation as to the potential effects of the phenomenon of bush
23 wives and this was clearly established during the
24 cross-examination.

11:37:11 25 Thirdly, it doesn't represent an overall survey and it
26 doesn't accumulate data, but rather it's a more selective and
27 restricted research according to which the own submissions of the
28 expert witness she confined herself to 59 personal interviews.

29 Fourthly, we were also able to establish, I think, Your

1 Honours, that when it concerns the summaries of the interviews
2 implemented in the report on pages 14, 15 and 18 and 19, these
3 interviews were not conducted, all of them, by Mrs Bangura
4 herself. We have therefore no way to verify the authenticity of
11:38:08 5 the summarisations implemented in the report. As to the lack of
6 scientific data or statistical foundation, I think it is also
7 very important to observe that the report itself, for instance on
8 page 6, mentions that there are thousands of bush wives who have
9 not been reintegrated and it was established during the
11:38:40 10 cross-examination that indeed for this qualification or this
11 estimation no foundation can be administered.
12 Therefore, we believe that the report should not be
13 admitted as an expert witness report, rather it is a personal
14 account and opinion of a witness and Your Honours should
11:39:08 15 therefore, in our humble submission, evaluate the evidence given
16 by the expert witness based on what has been said during the
17 examination-in-chief and the cross-examination. The
18 admissibility and the tendering of this document would
19 furthermore be prejudicial to the accused, because with tendering
11:39:34 20 of the document as a piece of evidence indirectly additional
21 evidence against the accused could be deduced based upon
22 fragments which were not subjected to cross-examination. In this
23 regard, I refer again to the interviews which are implemented in
24 the report on the pages 14, 15 and 18 and 19, according to which,
11:40:06 25 based upon the submissions of the expert witness herself, no form
26 of verification was able to be administered during the
27 cross-examination simply because the expert witness didn't
28 conduct all these interviews herself. Therefore, we maintain our
29 objections as previously elaborated on during the

1 examination-in-chief. Thank you.

2 PRESIDING JUDGE: Thank you, Mr Knoops. Ms Pack, you've
3 heard the --

4 THE WITNESS: Excuse me, can I use the bathroom.

11:40:46 5 PRESIDING JUDGE: Certainly, Mrs Bangura. Would someone
6 from witness support please assist the witness. Yes, Ms Pack?

7 [The witness stood down]

8 MS PACK: Your Honour, the objections raised by my learned
9 friend, there are two of them.

11:41:09 10 Firstly, there appears to be a challenge now again to the
11 expertise of this witness. The submission made is that the
12 evidence given by the witness was as to her personal accounts and
13 opinions and for some reason that this, therefore, isn't
14 admissible evidence and that then crosses over to the contents of

11:41:27 15 the report. Now, Your Honours have made a decision on the
16 expertise of this witness and Your Honours have decided that this
17 witness had sufficient expertise to opine on the issues of forced
18 marriage, which she did in her expert report and has done in oral
19 testimony. So the question of expertise is not a matter for Your
11:41:45 20 Honours to decide again or for my learned friends to make
21 submissions on at this stage, it having been decided.

22 The second collection of submissions made by my learned
23 friend were as to the quality of the evidence of this witness in
24 chief and the evidence contained in the report. These are all
11:42:03 25 submissions, in my submission, that may or may not go to weight,
26 and they're all matters that Your Honours may consider having
27 heard the cross-examination by counsel for the Defence, having
28 heard, if it is going to be the case, an expert witness called by
29 the Defence on the issue. At the end of the case it's a matter

1 for Your Honours to be decide.

2 But the issues raised, just dealing with them in turn, in
3 my submission there is no force to any of those submissions on
4 the issue of weight or indeed admissibility. Statistical
11:42:43 5 foundation of scope and effects of forced marriage, there has
6 been evidence dealt with by this witness as to the lack of public
7 statistical information and, therefore, why this witness was
8 called or gave evidence on the issue of forced marriage because
9 there is a lack of publically available statistical evidence on
11:43:02 10 this issue.

11 There were submissions made on the selective and
12 restrictive research by this witness. Well, she has given clear
13 evidence as to the quality and nature of her research. It's a
14 matter for Your Honours to decide whether Your Honours consider
11:43:15 15 that you're assisted by her research. It wasn't just limited to
16 59 personal interviews. Your Honours have heard there were other
17 interviews of other individuals above and beyond the bush wives.

18 The further submission made by my learned friend was as to
19 the summaries that Your Honours have seen on various pages of the
11:43:35 20 report. Now, the report was marked for identification and my
21 learned friends for the Defence have cross-examined extensively
22 on its contents and on methodology. They were given the
23 opportunity, if they wanted to, to cross-examine on the
24 authenticity of those summaries contained in the report, but they
11:43:52 25 didn't. They had the opportunity to do so. Mrs Bangura gave
26 evidence that she had all the ledgers with her, of her notes made
27 of the interviews that she carried out with the bush wives, and,
28 indeed, had notes of the interviews carried out by the CGG human
29 rights officers. There was available to counsel for the Defence

1 the opportunity to cross-examine on summaries contained in her
2 report. If they chose not to take that course and cross-examine
3 in further detail, so be it. But there's no submission that my
4 learned friend could make at this stage that an opportunity
11:44:28 5 wasn't given to verify, because that was what cross-examination
6 was for. And there's no reason now for Your Honours to not admit
7 the report for that additional basis put forward by my learned
8 friend.

9 So those are my submissions, Your Honour.

11:44:45 10 PRESIDING JUDGE: Thank you, Ms Pack. Mr Knoop on points
11 of law.

12 MR KNOOPS: Thank you, Your Honour. I will be very brief.
13 Your Honours, in our humble submissions the ruling of your
14 Honourable Trial Chamber given on this issue on 5th August 2005
11:45:06 15 in paragraph 31 was specifically given based upon the expectation
16 and perhaps the assumption that Mrs Bangura's report was based
17 not only on her experience as a campaigner for women's and civil
18 rights in Sierra Leone, upon personal experience in dealing with
19 women victims of forced marriage, but also as a cumulative
11:45:38 20 condition and also upon extensive secondary and primary data.

21 Now in our humble submission, there is no foundation left after
22 the cross-examination to assume that there are extensive
23 secondary and primary data simply because the expert witness
24 acknowledges during the cross-examination that there are no data.
11:46:04 25 And also she relied for part of her report on the existing
26 reports of, for instance, Human Rights Watch. So that means that
27 the second pillar of Your Honours' decision of 5th August of this
28 year, as enshrined in paragraph 31, now lacks any factual
29 foundation, and therefore what is left is actually a report based

1 on the personal experience of this expert witness with women
2 victims of forced marriage. In our humble submission that is
3 simply not enough to admit a report under the qualification and
4 the title expert witness report.

11:46:56 5 So I would think the Prosecutor is entitled to say -- well,
6 they are entitled to say, but it's not a valid argument to say
7 that Your Honours have already dealt with this issue.
8 Your Honours simply ruled on 5th August that some of the
9 objections were premature. Secondly, as to the admissibility of
11:47:16 10 her report as an expert witness report, the objections --

11 THE INTERPRETER: Your Honour, let counsel go back. The
12 counsel -- please, counsel.

13 PRESIDING JUDGE: Mr Interpreter, we couldn't hear what you
14 said.

11:47:38 15 THE INTERPRETER: We want counsel to take back the last bit
16 of his motion.

17 PRESIDING JUDGE: Mr Knoops, did you hear?

18 THE INTERPRETER: We want you to take the last bit of your
19 submissions, counsel.

11:47:53 20 PRESIDING JUDGE: Did you hear, Mr Knoops?

21 MR KNOOPS: Thank you. I'm sorry for the misunderstanding.

22 I was saying that in our humble submission the argument of
23 the Prosecution that Your Honours already dealt with this
24 argument is in our submission not valid. Because, first of all,
11:48:14 25 Your Honours ruled with respect to several objections that they
26 were premature. But, secondly, as to the admissibility of the
27 report as such, Your Honours in that regard ruled that the
28 testimony of Mrs Bangura was to be based on her experience as a
29 campaigner for women's and civil rights, personal experience and

1 also upon the extensive secondary and primary data.

2 Now this assumption lacks --

3 JUDGE SEBUTINDE: Mr Knoops, where are you reading from?
4 What paragraph are you quoting from from our decision?

11:48:58 5 MR KNOOPS: This is paragraph 31, Your Honours. It's, I
6 think, the 10th sentence from below, from the paragraph starting
7 with, "We also note the acknowledgment in paragraph 1.1 of
8 Mrs Bangura's report that", and you see the quotation. So what
9 my argument is that Your Honours in this regard relied in the
11:49:41 10 acknowledgment in paragraph 1.1 of that report. It's our
11 submission that this acknowledgment lacks factual foundation to
12 longer rely on, and it leaves only the personal experience of the
13 expert witness. And in the absence of any extensive secondary or
14 primary data, which were announced in that report which didn't
11:50:15 15 emerge during the cross-examination, to the contrast it was
16 confirmed that there are no extensive secondary or primary data
17 as to the scope of forced marriage, let alone the effect of the
18 phenomenon of bush wives. Because the expert witness clearly
19 testified, rightly so, she's not a medical expert. Yet her
11:50:42 20 report, at least on three occasions, refers to psychological
21 trauma, her report refers to thousands of bush wives without any
22 merit.

23 So all in all we believe that in this regard the second
24 pillar of Your Honours' assumption, referring to the
11:51:07 25 acknowledgment in paragraph 1.1 of Mrs Bangura's report, no
26 longer exists. And it means that the acceptance of a report
27 which is merely based on personal experience is simply not enough
28 to be tendered as a piece of evidence before an international
29 criminal tribunal.

1 These are my additional submissions, Your Honour.

2 PRESIDING JUDGE: Thank you. Please have a seat,
3 Mr Knoops.

4 [Trial Chamber conferred]

11:53:37 5 PRESIDING JUDGE: We'll adjourn briefly to consider the
6 submissions and give a ruling on this matter. Madam Court
7 Attendant, please adjourn the Court temporarily.

8 MS TAYLOR: Your Honours, I beg your pardon. I just note
9 that you're rising. I wonder whether it's necessary for the
11:54:07 10 witness to remain while this issue is --

11 PRESIDING JUDGE: I have in mind that -- we have no
12 questions of the witness and she's at liberty to leave the Court.

13 MS TAYLOR: Much obliged, Your Honour.

14 [Break taken at 11.58 a.m.]

12:08:35 15 [Upon resuming at 12.15 p.m.]

16 PRESIDING JUDGE: This is the ruling on an objection by
17 Defence counsel to the admission of a report. The issue of the
18 expertise of the witness has already been ruled upon and we find
19 no reason to revisit that decision. The report is clearly
12:12:13 20 relevant and admissible under Rule 89(C). Issues raised by
21 Defence counsel go to weight, which will be considered at the
22 appropriate time. That is our ruling. We have an indication
23 that a witness must be heard this afternoon. That is the correct
24 situation still, Ms Taylor?

12:12:39 25 MS TAYLOR: It is so, Your Honour. Just before we move to
26 that matter, might the report be given an exhibit number.

27 PRESIDING JUDGE: I think it's P32. Allow me to confirm
28 that, please.

29 MS EDMONDS: Yes, 32.

1 PRESIDING JUDGE: Thank you. The report will be P32.

2 MS TAYLOR: Thank you, Your Honour. The witness this
3 afternoon is witness number TF1-296. We have organised for her
4 to be available at 2.15. I note we only have 30 minutes before
12:13:10 5 our normal time for lunch. The Prosecution did have another
6 witness who could have started, but it seems --

7 PRESIDING JUDGE: It would seem little to be gained by
8 starting and interposing someone else and in the circumstances I
9 think it might be more appropriate to start that witness afresh
12:13:24 10 at 2.15. Could you indicate to us the language so we can inform
11 the interpreters?

12 MS TAYLOR: Yes, the witness will give evidence in English.
13 The witness also has some protective measures applying to her
14 that were ordered on 21st June 2005 by Trial Chamber I in a
12:13:46 15 decision called "Decision on Prosecution Request For Leave to
16 Call Additional Witnesses and For Orders For Protective
17 Measures". That is a decision in proceedings known as the CDF
18 trial. There was a closed session ordered for this witness
19 pursuant to Rule 75(A), and pursuant to Rule 75(F) that order
12:14:06 20 applies in this Chamber as well. My learned friends are aware of
21 that matter and, as I understand it, they have no issue with that
22 matter, but I thought it worth raising with Your Honours now.

23 PRESIDING JUDGE: We will note that, Ms Taylor. And that
24 would sound like an extra reason because a screen will have to
12:14:35 25 come back in, won't it?

26 MS TAYLOR: Yes, it will.

27 PRESIDING JUDGE: If there's no other matters, counsel, we
28 will adjourn to 2.15.

29 [Luncheon recess taken at 12.12 p.m.]

1 [AFRC04OCT05D - SV]

2 [Upon resuming at 2.25 p.m.]

3 PRESIDING JUDGE: Before the next witness is called, we
4 note the ruling of our learned colleagues in Trial Chamber I of
14:22:26 5 21st June 2005, and the ruling that the next witness, were she
6 to -- if the testimony were exposed to the public would give rise
7 to a significant threat to personal safety, and I here quote from
8 the decision, stipulate and a stipulation by a previous employer
9 and a ruling that "the testimony", I quote, "would be held in
14:22:59 10 closed session for this witness." That order being binding upon
11 this Court, I now rule that this witness be heard in closed
12 session for her personal safety. Madam Court Attendant, please
13 institute the closed session.

14 [At this point in the proceedings, a portion of the
14:23:15 15 transcript, pages 75 to 118, was extracted and sealed under
16 separate cover, as the session was heard in camera.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: ZAINAB BANGURA	2
CROSS-EXAMINED BY MR FOFANAH	2
CROSS-EXAMINED BY MR GRAHAM	40
WITNESS: TF1-296	75
EXAMINED BY MR HODES	75
CROSS-EXAMINED BY MR KNOOPS	75