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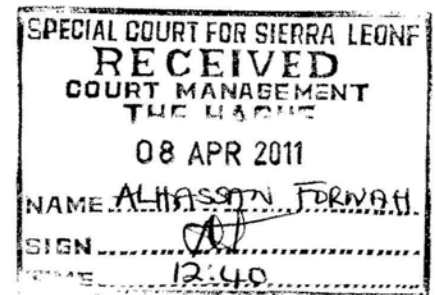
**SPECIAL COURT FOR SIERRA LEONE  
OFFICE OF THE PROSECUTOR**

**TRIAL CHAMBER II**

Before: Justice Teresa Doherty, Presiding  
Justice Richard Lussick  
Justice Julia Sebutinde  
Justice El Hadji Malick Sow, Alternate Judge

Registrar: Ms. Binta Mansaray

Date filed: 8 April 2011



**THE PROSECUTOR**

**Against**

**Charles Ghankay Taylor**

Case No. SCSL-03-01-T

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**PUBLIC**

**PROSECUTION FINAL TRIAL BRIEF**

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## I. OVERVIEW OF THE TRIAL EVIDENCE<sup>1</sup>

**Why I was willing to come and testify? It was for one reason: Because there was a man they used to call Charles Taylor. At the time there was war in Liberia he said that that war that had come to Liberia, we would taste the bitterness of that one in Sierra Leone. Everybody heard that in the radio. So if indeed the war came to Sierra Leone, and I am like this, this is my own portion of the bitterness that I tasted. Both of my hands were amputated. What he said was what came to pass. Those were his children who did that.**

*- Mustapha Mansaray, Testimony of 30 October 2008, p. 19629*

1. Charles Taylor created, armed, supported, and controlled the Revolutionary United Front (“RUF”) in a ten-year campaign of terror against the civilian population of Sierra Leone. Throughout the period of this Indictment—from the signing of the Abidjan Accord on 30 November 1996 to the formal declaration of the end of the war on 18 January 2002—Taylor directed the rebels’ strategies and fuelled the conflict in Sierra Leone by sending ammunition, weapons, and manpower to the RUF and its allies. While publicly portraying himself as a peacemaker, Taylor instructed the rebels to subvert peace agreements and provided critical support and direction to the rebel campaign to seize control of territory and resources in Sierra Leone.

### I.A. TAYLOR’S CRITICAL CONTRIBUTION TO THE CRIMES

**Immediately Freetown and the provincial headquarters fell in the hands of ECOMOG. The High Command was call (sic) to report by the president of Liberia Mr. Charles Taylor wherein the President seriously briefed the High-Command and gave him the confidence that he should not give up but to keep up the struggle and uphold the Revolution until the Leader returns. The President gave full assurance to the High-Command and promise to give his maximum support to the RUF. The President also took an oath that he will never betray his brother (Cpl. Foday Sankoh). From that point, the President gave huge quantity of logistics (ammunition) to the High-Command for us to start repelling the ECOMOG advancement or to contain situation.**

*- Exhibit P-67, Situation Report to Foday Sankoh from the Black Guard Commander*

2. The crimes suffered by the people of Sierra Leone would not have occurred but for Charles Taylor’s supervision and support for the RUF and AFRC. The trial record contains abundant corroborated evidence which proves that the Accused and his

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<sup>1</sup> The Prosecution Final Trial Brief is a comprehensive but not exhaustive examination of the evidence in the case. Of course, the Prosecution relies on all evidence in the case in discharging its burden to prove the Accused’s guilt beyond a reasonable doubt, whether or not referenced herein. The Prosecution is also mindful that it must prove the elements beyond a reasonable doubt but has no obligation to prove each fact beyond a reasonable doubt.

subordinates directly supplied and facilitated the supply of essential materiel that made possible the RUF's attacks and control of territory throughout the Indictment Period.<sup>2</sup>

3. Following the internationally condemned coup in May 1997, Taylor played an essential role in providing clandestine support to the rebel AFRC regime and promoting its alliance with the RUF. He dispatched liaisons Daniel Tamba and Ibrahim Bah to meet with the RUF and AFRC rebels.<sup>3</sup> Thereafter, Tamba delivered ammunition to the Junta in Kenema<sup>4</sup> and Taylor helped arrange the huge arms and ammunition shipment that arrived at Magburaka airfield in October 1997.<sup>5</sup> From the Junta's inception through the Intervention, Taylor was in personal telephone contact with AFRC leader Johnny Paul Koroma.<sup>6</sup> After the ECOMOG Intervention in February 1998, Taylor provided support and direction that made it possible for the rebels to regroup into a formidable force which within a year would again take control of most of Sierra Leone, including parts of the capital, Freetown. Taylor summoned RUF leader Sam Bockarie to Monrovia<sup>7</sup> and promised his full support for the movement.<sup>8</sup> Thereafter, Taylor issued instructions to organize the regrouping of the AFRC/RUF and their combined efforts to recapture Kono District.<sup>9</sup> Taylor instructed that Johnny Paul Koroma go to Buedu,<sup>10</sup> facilitated the return to the rebel ranks of experienced SLA officers and troops from Liberia,<sup>11</sup>

<sup>2</sup> While the Defence spent most of the first three years of the case challenging Prosecution evidence of military materials being brought to the RUF from Liberia by emissaries such as Daniel Tamba ("Jungle") and Zigzag Marzah, the Defence strategy took a u-turn in August 2010 with the calling of DCT-008, who testified that indeed military material was being carried to the RUF by these very individuals but the transactions were conducted by Taylor's closest subordinate, Benjamin Yeaten, without Taylor's knowledge – see DCT-008, TT, 24 August 2010, pp. 47046-47 and 27 August 2010, pp. 47386-94 and 7 September 2010, pp. 48185-87. Defence witness DCT-215, a former member of both Taylor's NPFL and the RUF, confirmed that Daniel Tamba would come and go between Sierra Leone and Liberia bringing ammunition – see DCT-215, TT, 30 March 2010, p. 38260.

<sup>3</sup> See for example: [REDACTED]; TF1-532, TT, 7 April 2008, p. 6722.

<sup>4</sup> TF1-375, TT, 23 June 2008, pp. 12488-91; TF1-568, TT, 15 September 2008, pp. 16165-66; TF1-388, TT, 9 July 2008, pp. 13353-55.

<sup>5</sup> See for example TF1-532, TT, 11 March 2008, pp. 5726-28 and 4 April 2008, pp. 6657-58; TF1-597, TT, 21 May 2008, pp. 10455-59, 10477-78; [REDACTED].

<sup>6</sup> TF1-597, TT, 21 May 2008, pp. 10444-59 detailing phone calls during the Junta period and pp. 10486-98 detailing satellite phone calls between JPK and Taylor after the Junta fled Freetown due to the ECOMOG Intervention.

<sup>7</sup> TF1-406, TT, 9 January 2008, pp. 826-49; TF1-274, TT, 2 December 2008, pp. 21441-48.

<sup>8</sup> [REDACTED]; Exh. P-67, p. 00009674.

<sup>9</sup> See for example [REDACTED]; TF1-577, TT, 5 June 2008, pp. 11054-56; TF1-568, TT, 12 September 2008, pp. 16147-51; TF1-597, TT, 21 May 2008, p. 10494; TF1-532, TT, 11 March 2008, pp. 5795-98; TF1-571, TT, 8 May 2008, pp. 9394-97.

<sup>10</sup> TF1-532, TT, 11 March 2008, pp. 5741-42; TF1-597, TT, 21 May 2008, pp. 10500-01.

<sup>11</sup> TF1-539, TT, 10 June 2008, p. 11473; [REDACTED].

[REDACTED]; TF1-334, TT, 24 April 2008, pp. 8509-11.

coordinated the transfer of ULIMO-K weapons caches to Bockarie,<sup>12</sup> approved Bockarie's promotion,<sup>13</sup> and sent additional consignments of his own ammunition stock to the RUF.<sup>14</sup>

4. During the Prosecution case, twelve witnesses testified taking ammunition from Liberia to the RUF during the period of the Indictment.<sup>15</sup> Many times, the ammunition or arms were taken from Taylor's residential White Flower complex, from the Presidential Executive Mansion in Monrovia and from Taylor's farm in Gbarnga. Many other witnesses corroborated the delivery of arms and ammunition from Taylor to the AFRC/RUF, including victims,<sup>16</sup> radio operators<sup>17</sup> and Defence witnesses.<sup>18</sup>

<sup>12</sup> See for example TF1-406, TT, 9 January 2008, pp. 819-23, 851-52; TF1-274, TT, 2 December 2008, pp. 21524-29.

<sup>13</sup> See for example TF1-571, TT, 8 May 2008, p. 9393-95; TF1-516, TT, 8 April 2008, p. 6854; TF1-585, TT, 5 September 2008, pp. 15617-21.

<sup>14</sup> See for example TF1-571, TT, 9 May 2008, pp. 9448-49, 9451-58; TF1-274, TT, 3 December 2008, pp. 21535-37; TF1-388, TT, 10 July 2008, pp. 13412-16; TF1-579, TT, 25 November 2008, p. 21090; TF1-360, TT, 5 February 2008, pp. 3117-18.

<sup>15</sup> The twelve witnesses are highlighted in bold: **1) TF1-274**, TT, 2 December 2008, pp. 21442, 21444-57 and 10 December 2008, pp. 22031-37: 1<sup>st</sup> trip with Sam Bockarie shortly after Intervention; 2 December 2008, pp. 21516-17, 21519-22: 2<sup>nd</sup> trip with Bockarie in mid-1998; 2 December 2008, pp. 21522-23 and 3 December 2008, pp. 21535-38: 3<sup>rd</sup> trip to Monrovia, mid-1998, with Victor, Yellow Man and Jungle, received ammo from behind White Flower; 3 December 2008, pp. 21541-55: Early December 1998 trip to Monrovia when Bockarie went on to Burkina Faso and received the ammunition used for the late 1998 offensive; 3 December 2008, pp. 21594-96: Trip during Freetown invasion where Bockarie sent the witness, Yellow Man and Victor to get ammunition from Yeaten at White Flower. The materials were taken back to Sierra Leone and dispatched to Rambo near Waterloo; **2) TF1-539**, TT, 10 June 2008, p. 11444-47, 11478, 11480-85 and 11 June 2008, pp. 11495-97, 11502-05, 11509: March 1999 shipment from Burkina Faso to Sierra Leone through Monrovia; see also 11 June 2008, p. 11517; **3) TF1-577**, TT, 5 June 2008, pp. 11107-10; **4) TF1-406**, TT, 8 January 2008, pp. 851-56; **5) TF1-399**, TT, 12 March 2008, pp. 5873-77, 5882-91; **6) TF1-276**, TT, 23 January 2008, pp. 1979-85; **7) TF1-516**, TT, 8 April 2008, pp. 6945-47, 6961-65; **8) TF1-571**, TT, 9 May 2008, pp. 9448-49, 9451-58: 1<sup>st</sup> time from helicopter at Foya in 1998; pp. 9461-69: 2<sup>nd</sup> time from White Flower after fighting the LURD in Lofa and Guinea (Bockarie visited Taylor and also received \$10,000); and 12 May 2008, pp. 9498-500, 9503-10: 3<sup>rd</sup> time with DCT-172 in Monrovia, collected arms and ammunition to attack Guinea; **9) TF1-375**, TT, 23 June 2008, pp. 12532-37: First trip: ammo for Fitti-Fatta from Taylor's farm in Gbarnga and 24 June 2008, pp. 12659-64: Three trips where ammunition was taken from White Flower and a fourth where ammo was taken from White Flower and the Executive Mansion; **10) [REDACTED]**; **11) TF1-579**, TT, 5 November 2008, pp. 19830-42 and 25 November 2008, TT, pp. 21119-22: two ammunition shipments; **12) [REDACTED]**

<sup>16</sup> TF1-015, TT, 8 January 2008, pp. 730-36: the witness testified to being sent with many other civilians to carry loads of ammo from Dawa on the Liberian border to Buedu. The ammunition was delivered by a helicopter which had Liberia written on the side. In Buedu, the ammo was divided amongst the commanders and the witness and other civilians carried their materials to Superman Ground where Teh heard DCT-172 say in a forum that the ammunition was to be used to attack Kono. This happened in November 1998; TF1-263, TT, 6 October 2008, pp. 17937-41, 17943: the witness, a forcibly recruited child soldier, testified that men wearing red caps and military trousers and speaking Liberian English (Komba was told the men were Charles Taylor's soldiers) brought new weapons that were distributed to recruits in Kailahun before the unsuccessful attack on ECOMOG in Koidu Town (Fitti-Fatta); TF1-060, TT, 29 September 2008, pp. 17545-47: Conteh corroborated TF1-571 when he testified that in 1997 in Kenema, Captain Eagle told him that the RUF was sending "all the

5. In the wake of the Intervention, crimes against civilians in Sierra Leone intensified as the AFRC/RUF sought to punish civilians for their role in expelling the junta in Freetown and Kono. The crimes were part of a tactical campaign of terror directed against the civilian population to exploit their labour and resources and force obedience through unlawful killings, sexual violence, looting, physical violence, and enslavement. Bockarie often gave commands to “make the area fearful” meaning to kill, capture or displace all civilians in the area.<sup>19</sup>
6. Taylor provided support to Sam Bockarie by regularly sending ammunition and other supplies to carry out offensive operations and maintain territories.<sup>20</sup> Taylor supplied the rebels with ammunition used to launch operation “Fitti-Fatta,” an effort to retake Koidu town in June 1998.<sup>21</sup> While the rebels were unable to hold Koidu town in this operation, they were able to capture more ammunition. Part of the ammunition sent from Liberia prior to Fitti-Fatta was then taken to Kurubonla in the North of Sierra Leone to SAJ Musa<sup>22</sup> and used by rebel forces in the North to continue their offensive

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diamonds they were getting in that place” (Tongo Fields) to Charles Taylor, who gave them ammunition in return.

<sup>17</sup> TF1-360, TT, 5 February 2008, pp. 3107, 3118-19, 3162-64; TF1-568, TT, 12 September 2008, pp. 16139-42, 16150-55 and 17 September 2008, pp. 16428-31; TF1-585, TT, 8 September 2008, pp. 15652-54, 15658-63, 15682-86, 15731-32 and 9 September 2008, p. 15782 and 11 September 2008, pp. 15996, 16002.

<sup>18</sup> DCT-215 testified that “Jungle” would frequently travel between Liberia and Sierra Leone, bringing ammunition to Bockarie (see DCT-215, TT, 26 March 2010, pp. 38110-11 and 30 March 2010, p. 38260); DCT-008, TT, 27 August 2010, pp. 47391-92: the witness corroborated the testimony of TF1-399 and others, testifying that ammunition was taken by Marzah, Jungle and Sampson to the RUF in 1998.

<sup>19</sup> See for example TF1-360, TT, 5 February 2008, pp. 3150-54; TF1-532, TT, 11 March 2008, pp. 5796-98: Bockarie said he discussed the plan for a fearful operation with Charles Taylor. See also TF1-375, TT, 23 June 2008, pp. 12510-13, who testified that Superman, Gullit, TF1-532 and other senior officers in Kono gave the order to make the area fearful.

<sup>20</sup> See for example TF1-360, TT, 5 February 2008, pp. 3161-63; TF1-334, TT, 18 April 2008, pp. 8033-35; [REDACTED]; Exh. P-67, pp. 00009676-77. Daniel Tamba aka Jungle would often escort the ammunition - see for example TF1-274, TT, 2 December 2008, pp. 21452-55; TF1-360, TT, 5 February 2008, pp. 3118-19. The ammunition would be sent on to the front lines for combat operations - see for example TF1-532, TT, 11 March 2008, pp. 5744-47; TF1-334, TT, 18 April 2008, pp. 8008-11, 8015-16 and 21 April 2008, pp. 8136-37.

<sup>21</sup> TF1-375, TT, 23 June 2008, pp. 12536-41; TF1-360, TT, 5 February 2008, pp. 3160-62, 3169; TF1-532, TT, 11 March 2008, p. 5748. TF1-263 was a child soldier sent to train in Kailahun for this mission and testified to ammunition and new weapons being brought by Charles Taylor’s soldiers and distributed to the recruits (see TF1-263, TT, 6 October 2008, pp. 17937-41 and 17943 which makes it clear this was the unsuccessful attack to take Koidu in June 1998 (Fitti-Fatta)).

<sup>22</sup> TF1-375, TT, 23 June 2008, pp. 12536-44.

and to capture more ammunition in Mongor Bendugu<sup>23</sup> and Kabala<sup>24</sup> before these forces began moving toward the Western Peninsula and the capital, Freetown.<sup>25</sup>

7. Taylor facilitated purchases of ammunition from former ULIMO-K fighters in Lofa County.<sup>26</sup> These ammunition transfers served a dual purpose for Taylor. They provided materiel for his RUF surrogates while diminishing the possibility that such ammunition might eventually be used by potential Liberian dissidents against Taylor's rule. Taylor first provided the contacts through a former ULIMO General, and then his police personnel provided the RUF buyers with vehicles and communication equipment.<sup>27</sup>
8. Taylor also arranged for large arms/ammunition shipments which arrived in Liberia from Burkina Faso at the end of November 1998, in late December 1998 and in March 1999 and were then transported across Liberia to the AFRC/RUF. The first two shipments were used in the December 1998 offensive, including the January and February attacks in Freetown/Western Peninsula. The third occurred in March 1999, just two months after the Freetown invasion, demonstrating Taylor's approval and continued support for his AFRC/RUF movement even after the commission of horrendous atrocities that had earned much international notoriety.<sup>28</sup>

#### **I.B. TAYLOR'S KEY ROLE IN FREETOWN INVASION**

**Q. So all that attack on Koidu Town, Kono, Magburaka, Makeni, all the way up to Waterloo, none of that would have happened without the ammunition Sam Bockarie brought back from Liberia, correct?**

<sup>23</sup> TF1-375, TT, 23 June 2008, pp. 12543, 12548-54. See also TF1-263, TT, 6 October 2008, pp. 17950-51, 17956-59; TF1-334, TT, 21 April 2008, pp. 8151-52 and 22 April 2008, pp. 8194-97.

<sup>24</sup> TF1-375, TT, 23 June 2008, p. 12552 and 24 June 2008, p. 12558-64. See also TF1-334, TT, 21 April 2008, pp. 8151-53 and 22 April 2008, pp. 8194-97.

<sup>25</sup> TF1-375, TT, 23 June 2008, pp. 12543-44 and 24 June 2008, pp. 12556-59.

<sup>26</sup> See for example TF1-406, TT, 9 January 2008, pp. 819-23, 851-53; [REDACTED]; TF1-274, TT, 2 December 2008, pp. 21524-30.

<sup>27</sup> TF1-367, TT, 20 August 2008, pp. 14152-55; TF1-406, TT, 11 January 2008, pp. 1081-82.

<sup>28</sup> For a description of the December 1998 arms shipment see TF1-274, TT, 3 December 2008, pp. 21542-53; TF1-532, TT, 4 April 2008, p. 6662-65; [REDACTED]; Ian Smillie, TT, 7 January 2008, pp. 558-59; Exh. P-18, p. 00004406, para. 211. For a description of the March 1999 shipment see TF1-539, TT, 11 June 2008, pp. 11502-06, 11509-12 and 10 June 2008, pp. 11483-85 and Exhibit P-21B depicting the logo on the tail of the plane described by the witness, Exhibits P-21A and P-21D depicting wooden and metal boxes on the floor and strapped into the seats of a passenger plane, as the witness described; Ian Smillie, TT, 7 January 2008, pp. 550-58; Exh. P-21C; Exh. P-18, p. 00004380, para. 21; Exh. P-32, p. 00004480, para. 212.

**A. Well, yes, because we captured Kono. But if we were not successful in capturing Kono, we wouldn't have gone ahead with the attacks. But the ammunition that we captured in Kono was what we used to go up to Makeni."**

*- Issa Sesay, Testimony of 12 August 2010, p. 46149*

9. In late November or early December 1998, AFRC/RUF military commander Sam Bockarie returned from Liberia with unprecedented quantities of ammunition. The ammunition had been flown from Burkina Faso to Roberts International Airport in Liberia, where Bockarie was waiting. It was unloaded by Taylor's personnel and then Bockarie took it by truck from Liberia to the rebels' stronghold in Kailahun, Sierra Leone.<sup>29</sup> Taylor was instrumental in this deal by putting the AFRC/RUF in contact with the Burkinabe authorities, sending Musa Cisse (who arranged Taylor's own clandestine weapons shipments<sup>30</sup>) to accompany Bockarie, and arranging the travel and delivery of the weapons through Liberia's principal airport to AFRC/RUF territory.<sup>31</sup> When Bockarie returned to Sierra Leone from this trip, he informed his top commanders that the ammunition would be used in an offensive planned with Taylor with the goal of taking Freetown and freeing Foday Sankoh.<sup>32</sup>
10. Within days, the rebels had launched a major offensive along two axes, attacking Koidu town and along the Segbwema/Joru/Tongo axis.<sup>33</sup> The Kono attack resulted in an unprecedented military victory for the rebel forces, routing four ECOMOG mechanized battalions.<sup>34</sup> Forces under the command of Issa Sesay took Koidu town and moved on

<sup>29</sup> For a detailed description of this particular shipment see TF1-274, TT, 3 December 2008, pp. 21542-45 and 10 December 2008, pp. 22076-79, 22083-85, 22089-91, 22107-09.

<sup>30</sup> Accused, TT, 25 November 2009, pp. 32500-501 and 1 December 2009, pp. 32703-06 and 2 December 2009, pp. 32910-11 and 14 January 2010, pp. 33353-55 and 15 February 2010, pp. 34926-27 and 18 February 2010, pp. 35417-18.

<sup>31</sup> [REDACTED]; TF1-406, TT, 9 January 2008, pp. 825-27. See also TF1-532, TT, 4 April 2008, p. 6662.

<sup>32</sup> See for example TF1-532, TT, 11 March 2008, pp. 5794-97; TF1-571, TT, 9 May 2008, pp. 9423-24; TF1-577, TT, 5 June 2008, pp. 11080-87; TF1-045, TT, 13 November 2008, pp. 20217-22; [REDACTED]; Exh. P-63, p. 00015487-91: this 2 December 1998 document is the minutes of a meeting at Waterworks immediately after Sam Bockarie's return from Liberia with the ammunition shipment from Burkina Faso. The document shows arrangements for full-scale operations were discussed and adds that those attending should not discuss how the material was brought to the RUF "for security reasons."

<sup>33</sup> See for example DCT-172, 19 August 2010, p. 46733; TF1-532, TT, 11 March 2008, pp. 5795-96, 5804-05: the witness led the attack on Joru and held it for three days before being dislodged by ECOMOG; TF1-571, TT, 9 May 2008, pp. 9438-41: the witness led the attacks on Segbwema and Daru barracks, the former was cleared but the attack on the latter was not successful; TF1-045, TT, 13 November 2008, pp. 20222-24; [REDACTED]; Exh. P-93, pp. 00025503-07. Akim Turay, an SLA, was given the target of Njaiama Nimikoro, which he captured (see TF1-532, TT, 11 March 2008, p. 5805), and later captured Tongo Fields in January 1999 (see TF1-367, TT, 20 August 2008, p. 14186 and DCT-172, TT, 23 August 2010, p. 46825-26.

<sup>34</sup> Exh. D-84, p. 00007763; DCT-172, TT, 12 July 2010, p. 44245. See also Exh. P-93, p. 00025505-06 showing materials captured in the attack on Koidu Town.

through Magburaka towards the west.<sup>35</sup> At Makeni, they were joined by RUF forces led by Dennis Mingo (“Superman”), SLA troops commanded by Brigadier Mani and STF fighters under the command of General Bropleh.<sup>36</sup> In a coordinated attack, these forces captured Makeni including the ECOMOG stronghold at Teko Barracks.<sup>37</sup> At the time of the attacks on Kono and Makeni, attacks were taking place along a third axis in the north of the country, attacks by combined AFRC/RUF/STF forces joined by Taylor’s subordinate reinforcements and commanded by ex-SLA officer SAJ Musa. Musa’s offensive put further strain on ECOMOG defences as his force headed toward Freetown. The evidence shows that while Musa was unwilling to subordinate himself to Bockarie’s command, the situation changed dramatically when Musa was killed at Benguema in late December 1998. Sam Bockarie’s friend, Alex Tamba Brima (“Gullit”),<sup>38</sup> then took command of the AFRC/RUF forces at Benguema.

11. Immediately, Gullit began to communicate with Bockarie and to coordinate attacks.<sup>39</sup> Bockarie promised to send reinforcements to join the forces in Benguema in order to enter Freetown.<sup>40</sup> Bockarie ordered Superman to capture Port Loko and Lungi, in an attempt to cut off reinforcements that could come by air through Lungi or by road from Guinea.<sup>41</sup> Gullit, knowing that friendly RUF forces were at his rear and on their way to reinforce him, led his forces into the city. Upon taking State House, the invading forces

<sup>35</sup> DCT-172, [REDACTED] 19 August 2010, p. 46733; Exh. P-93; TF1-174, TT, 27 January 2009, pp. 23685-87; in Makeni, the witness heard about an attack on Magburaka by combined AFRC/RUF forces on 19 December 1998.

<sup>36</sup> TF1-375, TT, 24 June 2008, pp. 12594-600; TF1-263, TT, 6 October 2008, pp. 17970-74; TF1-334, TT, 22 April 2008, p. 8258; Superman told Gullit he was in Bumbuna with Brigadier Mani and they were advancing toward Binkolo to capture Makeni; TF1-174, TT, 28 January 2009, pp. 23810-11; General Bropleh was in charge of the STF and in Makeni was working with the RUF; [REDACTED].

<sup>37</sup> TF1-375, TT, 24 June 2008, p. 12597; TF1-263, TT, 6 October 2008, pp. 17973-74; TF1-532, TT, 11 March 2008, pp. 5805, 5810; Exh. P-93, p. 00025507; Makeni captured on 24 December 1998; TF1-274, TT, 4 December 2008, pp. 21749-51; TF1-174, TT, 27 January 2009, pp. 23685-89; combined AFRC/RUF forces attacked Makeni beginning on 23 December 1998 until about 26-27 December 1998 when the town crier announced ECOMOG had been wiped out of Makeni.

<sup>38</sup> [REDACTED]; DCT-102, TT, 4 November 2010, p. 48819; DCT-172 admitted in his testimony that Gullit was a friend of both Sam Bockarie and himself. Gullit and Bockarie had traveled together to Gambia. See DCT-172, TT, 19 August 2010, pp. 46738-39 and 23 August 2010, p. 46836 and 12 July 2010, p. 44204. Sesay lied in his RUF testimony in order to protect Gullit, falsely claiming he had taken no diamonds from Gullit when in his Taylor testimony he admitted he had taken diamonds from Gullit (see DCT-172, [REDACTED] 19 August 2010, pp. 46740-42).

<sup>39</sup> TF1-275, TT, 22 February 2008, p. 4560; TF1-360, TT, 6 February 2008, pp. 3217-20, 3229; TF1-568, TT, 15 September 2008, p. 16171-72; TF1-274, TT, 3 December 2008, pp. 21564-69 and 4 December 2008, pp. 21727-28; TF1-334, TT, 22 April 2008, pp. 8253-54.

<sup>40</sup> TF1-274, TT, 4 December 2008, pp. 21722-29; TF1-334, TT, 22 April 2008, pp. 8254-57.

<sup>41</sup> DCT-172, TT, 19 August 2010, pp. 46766-69; See also DCT-172, TT, 4 August 2010, p. 45432 and 23 August 2010, p. 46845 and 26 August 2010, pp. 47301-02.

themselves announced over the international media that new rulers of the capital were “the combined forces of the AFRC and the RUF.”<sup>42</sup>

12. Immediately upon learning that Gullit had entered Freetown, Bockarie reported this success to Charles Taylor by satellite phone<sup>43</sup> and remained in regular contact with Taylor and Benjamin Yeaten throughout the invasion.<sup>44</sup> While the rebel forces were still in Freetown, Taylor sent additional ammunition to Bockarie.<sup>45</sup> DAF and two others were sent to Monrovia and obtained ammunition from Taylor’s White Flower residential complex that was brought back to Sierra Leone and sent on to the RUF troops at Waterloo fighting to enter the city.<sup>46</sup>
13. Bockarie and other alliance commanders were in frequent contact and issued regular instructions to Gullit. When Superman was unable to take Port Loko, Bockarie ordered the AFRC/RUF forces under Boston Flomo (“Rambo”) to join Gullit in Freetown.<sup>47</sup> Issa Sesay confirmed in his testimony that forces led by Rambo and Superman were sent to enter Freetown while Gullit was fighting in the city.<sup>48</sup> These AFRC/RUF forces were able to capture and defeat Guinean forces at Waterloo/Hastings, forcing their retreat out of the Western Peninsula back to Port Loko, but the AFRC/RUF was unable to get past Nigerian forces at Jui.<sup>49</sup> However, Issa Sesay sent Idrissa Kamara, “Rambo

<sup>42</sup> Exh. P-279A at 3:33-4:60; See also P-279B, p. 2, the transcript of the interview in Exh. P-279A; TF1-274, TT, 3 December 2008, pp. 21577-81; TF1-334, TT, 22 April 2008, pp. 8286-89; stating both Bockarie and FAT Sesay made announcements to this effect; DCT-172, TT, 19 August 2010, pp. 46753, 46756-57; discussing exhibit P-279A and identifying FAT Sesay as the caller; DCT-299, TT, 23 June 2010, p. 43239; referring to FAT Sesay’s announcement.

<sup>43</sup> TF1-568, TT, 15 September 2008, pp. 16173, 16175-78; TF1-585, 8 September 2008, pp. 15722-23.

<sup>44</sup> TF1-274, TT, 3 December 2008, pp. 21555-56, 21609; TF1-516, TT, 8 April 2008, pp. 6937-38, 6942 and 9 April 2008, p. 6979; TF1-585, TT, 8 September 2008, pp. 15719-23; TF1-276, TT, 23 January 2008, pp. 2020-21.

<sup>45</sup> TF1-516, TT, 9 April 2008, pp. 6980-81; stating that Bockarie crossed into Liberia to get material during the Freetown invasion. See also TF1-516, TT, 8 April 2008, pp. 6960-65 and TF1-532, TT, 7 April 2008, pp. 6727-30; the witness states that Bockarie told him that before the coup, Jungle had left to ask the Accused for more ammunition and later (when Mongor was already in Freetown with AFRC) told him that Jungle had come back to Buedu with some 50 boxes of ammunition; TF1-276, TT, 23 January 2008, pp. 2011-13; the witness discussed a trip made by Bockarie during the offensive where the RUF took Kono district and attacked Freetown; [REDACTED]

[REDACTED]; Exh. P-18, p. 00004406, para. 211.

<sup>46</sup> TF1-274, TT, 3 December 2008, pp. 21535-36, 21594-96; TF1-375, TT, 24 June 2008, pp. 12608-12; DCT-172, 4 August 2010, p. 45433; TF1-334, TT, 22 April 2008, pp. 8300-02; TF1-584, TT, 19 June 2008, pp. 12273-78.

<sup>47</sup> TF1-567, TT, 2 July 2008, pp. 12917-19; TF1-375, 24 June 2008, pp. 12608-12; TF1-584, TT, 19 June 2008, pp. 12273-78; TF1-334, TT, 22 April 2008, pp. 8299-302; TF1-274, TT, 3 December 2008, pp. 21562-65, 21569, 21583, 21593-96, 21604-08; DCT-172, TT, 4 August 2010, p. 45433 and 19 August 2010, p. 46750; TF1-360, TT, 5 February 2008, pp. 3173-74 and 6 February 2008, pp. 3208-10.

<sup>48</sup> DCT-172, TT, 19 August 2010, pp. 46749-51, 46793-94.

<sup>49</sup> DCT-172, TT, 19 August 2010, pp. 46751, 46781-8; TF1-567, TT, 2 July 2008, p. 12919; TF1-375, TT, 24 June 2008, p. 12609.



Red Goat", with a group of RUF fighters into the city, bypassing ECOMOG forces and reinforcing Gullit's men.<sup>50</sup>

14. When it was clear that the ECOMOG forces in the city, reinforced by forces flown into Lungi and transported by helicopter into the city, were at the point of forcing Gullit's contingent to retreat, Bockarie gave instructions to destroy the city. Ten witnesses, from a variety of vantage points, testified that Bockarie gave orders for the destruction of Freetown, telling Gullit to "burn the fucking place" down, "make the area fearful" and similar commands.<sup>51</sup>
15. Bockarie and his personnel continued to coordinate with the AFRC commanders in an attempt to re-take Freetown even after the retreat and burning of the city. In his testimony, Issa Sesay confirmed the Prosecution's evidence that, in February 1999, forces led by Superman and Rambo combined with forces under Gullit in an unsuccessful attempt to re-enter Freetown by way of Tombo.<sup>52</sup> The coordinated Gullit/RUF attack in February demonstrates that Gullit was coordinating and working with Bockarie's combined AFRC/RUF forces to capture Freetown.
16. It was only after reinforced ECOMOG forces gained the upper hand in the city and threatened to encircle the rebel forces on the Peninsula that Charles Taylor moved to

<sup>50</sup> TF1-375, TT, 24 June 2008, p. 12608-11: stating RUF Rambo got an order from Issa Sesay to take another road in Jui and that Sesay appointed Rambo Red Goat to lead the troops to go and join the others in Freetown; TF1-334, TT, 22 April 2008, pp. 8300-02 and 23 April 2008, pp. 8321, 8326-27.

<sup>51</sup> Radio operators: TF1-568, TT, 15 September 2008, p. 16171: in Buedu, heard order "to make the area fearful" which, from witness' understanding meant to destroy completely; TF1-516, TT, 8 April 2008, pp. 6931-32 and 6935: in Buedu, Bockarie said, "before retreating you have to make the area fearful to call the minds of the international community" and "if they mount pressure on us,...I will burn the fucking place"; TF1-274, TT, 3 December 2008, pp. 21590-93: in Buedu, heard Mosquito's order to give civilians short sleeves and long sleeves and burn down houses including important government buildings like the oil refinery; TF1-585, TT, 8 September 2008, pp. 15726-30: in Buedu heard order to "kill many people and burn many houses down"; TF1-360, TT, 6 February 2008, pp. 3234-35: from Freetown, heard order to "make Freetown more fearful than before" which the witness knew "was to destroy, kill, amputate, destroy bridges, set road blocks" and that Bockarie also gave instructions specifying which areas, including Kissy Terminal refinery; TF1-275, TT, 22 February 2008, p. 4561, 4563 and 4568: from Lunsar, heard order to "make themselves fearful" and in Krio "kill all the civilians, burn all the houses where you are...you should kill and make yourselves fearful. Amputate arms."; TF1-584, TT, 19 June 2008, pp. 12281-82: from Yams Farm/Waterloo, heard order to "burn the fucking place and...not spare anything. He said that verbally". Other witnesses: TF1-375, TT, 24 June 2008, pp. 12612-13: In Waterloo, the witness heard Bockarie stating on BBC that if any contingent attacked his forces in Freetown he will command his forces to burn all the embassies down; TF1-532, TT, 11 March 2008, pp. 5821, 5825: from "around that Joru axis" heard Mosquito passing instruction telling Rambo that if there was no way to stand the men they should start carrying out some destruction and to "set fire on the Nigerian embassy and other areas"; TF1-334, TT, 22 April 2008, pp. 8299-300 and 23 April 2008, pp. 8328-30: from inside Freetown with Gullit's forces and then at State House, confirming what was said over international media (BBC), Mosquito gave Gullit orders to "start moving with his men around to burn Freetown and burn down strategic areas so that there would be no government and there will be nobody for the government to rule." He also ordered the capturing of civilians.

<sup>52</sup> DCT-172, TT, 23 August 2010, pp. 46850-51. See also TF1-334, TT, 23 April 2008, pp. 8381, 8392.

broker a ceasefire that would leave the rebels with most of their gains intact, including control of the diamond fields in Sierra Leone.<sup>53</sup>

17. In his own testimony, Taylor claimed he was the “Point Man” who was responsible for contacting and negotiating with the rebel leaders to advance the peace process and became “the lead person in the crisis.”<sup>54</sup> He used this claim to try to explain why he brought Sam Bockarie to Monrovia on multiple occasions in 1998, why he facilitated Bockarie’s trip to Burkina Faso (where he brought back weapons through Liberia that made the December 1998 offensive possible), why he gave Bockarie a satellite telephone, and why he established a permanent AFRC/RUF presence in Monrovia at a “Guesthouse.” Taylor claimed he was “outraged” when he learned of the Freetown invasion,<sup>55</sup> yet, when asked what he did when he learned that Freetown was burning, the Accused answered, “Nothing.”<sup>56</sup> When the rebel offensive was launched in December 1998, Koidu and Makeni fell to AFRC/RUF troops and Bockarie was making threats over the international radio, saying his troops were heading to Freetown<sup>57</sup> and that when his troops took the city, “I shall clear every living thing and building. To my God, I’ll fight. I’ll kill and kill and the more they tell me to stop, the more I’ll kill.”<sup>58</sup> Taylor said he moved his own troops to the border being aware of the fighting but never contacted Sam Bockarie.<sup>59</sup> Despite having provided the rebels with a satellite phone and offices in Monrovia, he made no attempt to stop the offensive because in truth, Charles Taylor was the real power who had planned, facilitated and ordered the attack.

## **I.C. TAYLOR’S ROLE IN LOOTING DIAMONDS FROM SIERRA LEONE**

**The rebels insisted on having diamonds. When they discovered diamonds in Kono, they realized it was their only source of outside support. If those rebels were right here**

<sup>53</sup> Taylor announced a ceasefire between the Government of Sierra Leone and the RUF on 14 January 1999 (see Accused, TT, 11 August 2009, pp. 26434-35 and Exh. D-189, p. 3), which was after rebel forces were forced out of the center of Freetown (see Exh. P-328, p. 23000) and when the rebels were in danger of being trapped on the Western Peninsula. See also Accused, TT, 26 November 2009, pp. 32620-23. Clearly there was no question in Taylor’s mind that the invaders of Freetown were under the command of Bockarie.

<sup>54</sup> Accused, TT, 27 July 2009, p. 25308.

<sup>55</sup> Accused, TT, 14 July 2009, p. 24332.

<sup>56</sup> Accused, TT, 26 November 2009, p. 32615.

<sup>57</sup> See Exh. P-430D, dated 27 December 1998, threatening to bombard Freetown and Exh. P-430A, entry for 29 December 1998 (“we will have to invade Freetown.”)

<sup>58</sup> Exh. P-430B.

<sup>59</sup> Accused, TT, 26 November 2009, pp. 32614-15.

**doing farming, they would not have the outside support, and the war would have been over a long time ago. I would not have had my hands amputated.**

*- Ibrahim Fofanah<sup>60</sup>*

18. The evidence shows that as early as 1992, the RUF attacked Koidu town and took captured diamonds to Charles Taylor.<sup>61</sup> Again, in 1995, the RUF took Koidu and Tongo Fields.<sup>62</sup> However, it was during the AFRC/RUF Junta period that Taylor began to taste the real benefits of Sierra Leone's abundant diamond resources. In order to arrange the Magburaka arms shipment, Taylor's emissary Ibrahim Bah informed the Junta leaders that it would be necessary to pay cash for the flight and provide diamonds to Taylor to arrange the shipment.<sup>63</sup> Diamonds mined in the Kenema District (particularly Tongo Fields), the area then controlled by Bockarie, were taken to Taylor by Daniel Tamba.<sup>64</sup>
19. When the Junta was expelled from Freetown and the youths and Kamajors in Kono had dislodged the rebels from Koidu town, Taylor ordered the rebels to concentrate on re-taking Kono district.<sup>65</sup> Taylor arranged the shipment of multiple truck-loads of ammunition from Burkina Faso through Roberts International Airport that enabled the late 1998/early 1999 offensive in which the rebels were able to take control of all the diamond mining areas.
20. Taylor also encouraged the parties to sign the Lomé Accord, which allowed the RUF to maintain control of Sierra Leone's diamonds and continue to deliver the most valuable ones to Taylor, while discouraging the AFRC/RUF from actually fulfilling their obligation under the Accord to disarm.<sup>66</sup> Rebel diamond production was increased as

<sup>60</sup> This quote is from Exh. P-14 at 4:04, which is an interview with Ibrahim Fofanah as part of the History Channel documentary, "Blood Diamonds." Fofanah testified in this trial without protective measures on 27 and 28 October 2008.

<sup>61</sup> TF1-567, TT, 2 July 2008, pp. 12856-63, 12866-67; TF1-577, TT, 4 June 2008, pp. 10912-14; TF1-367, TT, 20 August 2008, pp. 14110-12; concerning RUF attacks on Koidu town in 1992 and 1995 and capturing gold and diamonds; [REDACTED].

<sup>62</sup> Exh. P-19, p. 00030870; TF1-367, TT, 20 August 2008, pp. 14110-11; [REDACTED]; TF1-516, 9 April 2008, p. 7116 and 10 April 2008, pp. 7143-44.

<sup>63</sup> [REDACTED].  
<sup>64</sup> TF1-571, TT, 8 May 2008, pp. 9380-84; TF1-060, TT, 29 September 2008, pp. 17545-47; TF1-045, TT, 13 November 2008, pp. 20214-17 and 17 November 2008, pp. 20419-20; TF1-375, TT, 23 June 2008, pp. 12492-94.

<sup>65</sup> TF1-577, TT, 5 June 2008, pp. 11054-56; TF1-375, TT, 23 June 2008, pp. 12523-24, 12530; TF1-334, TT, 28 April 2008, pp. 8709-10; TF1-360, TT, 5 February 2008, p. 3102; TF1-532, TT, 11 March 2008, p. 5744-46; TF1-597, TT, 21 May 2008, pp. 10494-95.

<sup>66</sup> [REDACTED]; TF1-399, TT, 12 March 2008, pp. 5895-99; TF1-375, TT, 24 June 2008, pp. 12690-93.

Taylor sent machinery and fuel to assist in the mining.<sup>67</sup> Issa Sesay testified that when Bockarie left the RUF, Liberian security closed the border to all with the single exception that Taylor's emissary, Ibrahim Bah, was allowed to cross the border into Sierra Leone with trucks filled with mining equipment.<sup>68</sup>

21. Although key individuals involved in the delivery of Sierra Leone diamonds to Charles Taylor are dead<sup>69</sup> and both Taylor and the AFRC/RUF treated their diamond business as tightly guarded secrets,<sup>70</sup> the evidence presented in this trial has shown that many millions of dollars worth of AFRC/RUF diamonds—most mined by civilians under conditions amounting to slavery—were delivered to Taylor. Twenty-five witnesses provided information about the AFRC/RUF's diamond business with Taylor or his designees.<sup>71</sup> Their testimony is corroborated by documents and reports,<sup>72</sup> expert

<sup>67</sup> TF1-367, TT, 21 August 2008, pp. 14196-98; DCT-172, TT, 14 July 2010, pp. 44476-78.

<sup>68</sup> DCT-172, TT, 14 July 2010, pp. 44464-65, 44476-78 and 23 August 2010, pp. 46858-60; see also Exh. D-3, p. 0008779: radio message dated 12 January 2000 from Bah to Smile (Foday Sankoh) asking to "Info Monrovia to pick us up at the border today or latest tomorrow to speed up our movement."

<sup>69</sup> Foday Sankoh died in the custody of the Special Court while Sam Bockarie and Daniel Tamba were killed on Taylor's orders (see more detail in section X.A. – Efforts to Suppress Evidence).

<sup>70</sup> Exh. P-579 reports to Sesay that a journalist from the Guardian was conducting secret interviews with people – "a situation observed to be negative toward RUF" – and two international journalists went to Kono to investigate the diamond business of the RUF and its link with President Charles Taylor. The report refers to "issues that will incriminate the whole movement" and recommends that Maj. Blackman, who was seen with the journalists, be barred from any journalist activities. See also Exh. P-481, regarding the arrest and mistreatment of Sorious Samura and other journalists in Liberia investigating Taylor's links to Sierra Leone diamonds.

<sup>71</sup> [REDACTED]; TF1-571, TT, 8 May 2008, pp. 9380-84; TF1-060, TT, 29 September 2008, pp. 17545-47; TF1-367, TT, 21 August 2008, pp. 14230-31; TF1-577, TT, 4 June 2008 pp. 10912-14 and 5 June 2008, pp. 11071-72; TF1-590, TT, 16 June 2008, pp. 11829-30; Suwandi Camara, TT, 11 February 2008, pp. 3572-74; TF1-276, TT, 23 January 2008, p. 1972, 1975; TF1-539, TT, 10 June 2008, pp. 11450-55; TF1-338, TT, 2 September 2008, pp. 15156-61, 15164-70; TF1-174, TT, 28 January 2009, pp. 23773-76; TF1-360, TT, 4 February 2008, pp. 3045-46 and 5 February 2008, pp. 3146-47, 3161-62 and 6 February 2008, p. 3267; TF1-275, TT, 21 February 2008, p. 4510-11; TF1-532, TT, 11 March 2008, p. 5793-94 and 31 March 2008, pp. 6193-94; TF1-399, TT, 12 March 2008, pp. 5877-79, 5883 and 14 March 2008, pp. 6131-37; TF1-516, TT, 10 April 2008, pp. 7164-72; TF1-375, TT, 23 June 2008, p. 12492 and 24 June 2008, pp. 12686-90; TF1-388, TT, 9 July 2008, pp. 13356-57 and 18 July 2008, pp. 14039-42; TF1-585, TT, 8 September 2008, p. 15682-87; TF1-568, TT, 15 September 2008, pp. 16186-89 and 16 September 2008, pp. 16390-401; TF1-579, TT, 5 November 2008, pp. 19860-63; TF1-045, 12 November 2008, p. 20148-49 and 13 November 2008, pp. 20214-17, 20246-49 [REDACTED]; TF1-406, TT, 11 January 2008, pp. 1103-04 and 14 January 2008, pp. 1175-76; [REDACTED].

<sup>72</sup> See for example Exh. P-63, p. 00015489: the CDS (Bockarie) congratulated Col. Jungle and General Abraham for delivering the parcels that were given to them for "our father across" and the father was keeping the parcel until they got more so as to be able to purchase a reasonable quantity of whatever they want; Exh. D-8, p. 00012957: Mosquito informed Mike Lamin that he needed some of the gem stones to give to the leader in Monrovia to facilitate their contacts; and pp. 00012959-60: Bra told Benjamin they had something they wanted to present to Big Brother in Monrovia so that he would help them, but Benjamin said they should not enter Liberia because ECOMOG were hunting for them. A letter was written to accompany the handing over of the 1832 pieces of diamonds in 9 plastics to the Papay. "Big Brother" told them he would reserve them until Sankoh returned; Exh. P-67, p. 00009675: a large quantity of diamonds taken from JPK and his bodyguards

testimony<sup>73</sup> and statistics on exports of rough diamonds from Liberia that far exceeded the country's mining capacity<sup>74</sup> and the fact that, contrary to Taylor's claim that he has never possessed rough diamonds,<sup>75</sup> in September 1997 on a trip that would take him to Burkina Faso just weeks before a large ammunition and weapons shipment was flown from that country to the rebel Junta in Sierra Leone, Taylor had a gift of rough diamonds delivered to a fashion model he met in South Africa.<sup>76</sup>

#### I.D. TAYLOR'S KNOWLEDGE OF ATROCITIES IN SIERRA LEONE

**Well, I put it this way: There is no one on this planet that would not have heard through international broadcasts or probably discussions about what was going on in Sierra Leone. I would be the first to say yes, we did hear of certain actions that were going on in Sierra Leone that we - that were a little strange to us because those things did not occur in Liberia.**

*- Charles Taylor, Testimony of 14 July 2010, p. 24329*

22. The Accused was well aware of the notorious reputation of the RUF and their violent tactics against civilians, which included the commission of all the crimes charged in the Indictment. In an interview with *Le Monde* in November 2000, Taylor acknowledged that "the RUF committed terrible atrocities."<sup>77</sup> On the first day of his own testimony, when asked if he was aware of atrocities committed in Sierra Leone, the Accused responded as quoted above.
23. In particular, Taylor acknowledged in his testimony that world attention had focused on Sierra Leone after the horrendous atrocities of the Freetown invasion were widely reported in the international media.<sup>78</sup> Yet, even after the notorious January 1999 Freetown invasion, Taylor continued to supply the AFRC/RUF with military materials<sup>79</sup> and to encourage their leaders to resist disarmament and maintain control of the most

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were given to General Ibrahim and sister Memuna for them to travel with the parcels directly to President Taylor.

<sup>73</sup> See testimony of Ian Smillie, 7-8 January 2010 and Exhibits P-18 and P-19.

<sup>74</sup> Ian Smillie, TT, 7 January 2008, pp. 539-44, 567-71 and Exh. P-19, pp. 00030852-53: Liberia's official diamond exports averaged 150,000-200,000 carats per annum in the five years preceding their civil war, contrasting with the 10-year average of diamond exports from Liberia between 1990-1999 at 5 million carats per annum.

<sup>75</sup> Accused, TT, 26 November 2009, pp. 32601-02.

<sup>76</sup> See testimony of Carole White, Naomi Campbell and Mia Farrow.

<sup>77</sup> Exh. P-33B, p. 00043985. The Accused confirmed in his own testimony that he made this statement (Accused, TT, 26 November 2009, p. 32649).

<sup>78</sup> Accused, TT, 26 November 2009, p. 32622.

<sup>79</sup> For example, the UN Panel of Experts on Sierra Leone (Exhibit P-18, pp. 00004405-06, paras. 203-211) reported an air shipment of 68 tons of ammunition and weapons from Burkina Faso to Liberia in March 1999; TF1-539 was on the plane along with Sam Bockarie and on the convoy with Bockarie when much of the material was trucked across Liberia to the rebels' territory in Sierra Leone. See TF1-539, TT, 10 June 2008, pp. 11480-81 & 11 June 2008, pp. 11494-95, 11504-009, 11516-20.

diamondiferous areas of Sierra Leone, he worked to maintain the alliance between the RUF and AFRC forces, he protected and sponsored the most brutal of the RUF rebel commanders, Sam Bockarie, and he facilitated the AFRC/RUF's mining and trading of diamonds both for his own profit and to fund military materials for the AFRC/RUF.

24. Even the testimonies of former RUF members who were witnesses for Taylor's defence establish that the RUF was created in Taylor's NPFL territory and that its fighters were recruited through terror. Issa Sesay, DCT-292, and Sam Kolleh all confirmed that they were forced to train for the RUF on threat of death for those who tried to escape, and the evidence establishes that most of the Sierra Leonean recruits were taken from NPFL jails.<sup>80</sup> Taylor used terror and the threat to kill Sierra Leonean citizens in Liberia in order to create the RUF, he made the organisation in the image of his own NPFL forces, so it was no surprise to him that the RUF treated the civilian population of Sierra Leone with the same terror tactics that he himself had sanctioned.

#### **I.E. THE RUF WAS AN EXTENSION OF THE NPFL**

**RUF is not different. NPFL is not different. Once you go across you go to Freetown you are an RUF. When you cross from Sierra Leone to Liberia you are NPFL. That was how the movement was like. We all took one instruction from Charles Taylor. Have I made myself clear?**

*- Joseph Marzah, Testimony of 12 March 2008, p. 5898*

25. Contrary to Taylor's claim that the commission of atrocities was "strange to us because those things did not occur in Liberia," the evidence shows that the RUF was created by Taylor in the image of his own NPFL, an organization infamous for its use of terror tactics.<sup>81</sup> The evidence from both Prosecution and Defence witnesses has shown that many of the original RUF recruits were themselves forcibly conscripted by NPFL forces and trained at Taylor's Camp Naama.<sup>82</sup> Horrendous atrocities against civilians were committed by all factions in the Liberian civil war, including Taylor's NPFL.<sup>83</sup>

<sup>80</sup> See [REDACTED].

<sup>81</sup> See for example Exh. D-118, an article introduced during Taylor's direct examination written by a journalist sympathetic to Taylor, which describes the NPFL's use of child soldiers and widespread commission of atrocities such as slitting the necks of elderly Krahn men and slitting open the wombs of pregnant women; Exh. P-126, a news article reporting an NPFL rampage of rapes, killings, and burnings, including an incident where more than 200 people were burned alive; and Exh. P-127, a Liberian news article which describes indiscriminate killings and burnings by NPFL fighters. These all impeach Taylor's testimony from 14 July 2009, p. 24329 that he heard that people in Sierra Leone were getting killed, women were getting raped and different things but he could not understand it because they did not tolerate those things in Liberia and they did not occur.

<sup>82</sup> See for example the testimony of DCT-172 (TT, 5 July 2010, pp. 43595-98), DCT-102 (TT, 1 November 2010, p. 48367-69), DCT-292 (TT, 1 June 2010, pp. 41695-706), and the transcript of the testimony of Morris Kallon (Exh. P-565), which all describe how they and other RUF vanguards were forcibly conscripted by the

26. One individual but telling example of the terror of Taylor's own forces was the testimony throughout the trial regarding "Zigzag" Marzah. Marzah himself admitted his own participation in NPFL terror tactics, including displaying heads on sticks and car bumpers, stringing human intestines across a road, eliminating all civilians from areas that were seen as sympathetic to enemies, killing babies, extracting fetuses from the wombs of pregnant women, and cannibalism.<sup>84</sup> Taylor tried desperately to distance himself and discredit Marzah, testifying that Marzah was only an orderly who shined the shoes of Benjamin Yeaten and that he had first laid eyes on Marzah when he testified.<sup>85</sup> However, when asked to explain how he then knew Marzah was an orderly, Taylor contradicted his previous testimony saying that he recognized Marzah's face in court.<sup>86</sup> Taylor's own Defence witnesses further destroyed his claims regarding Marzah. Annie Yeney testified that Marzah was so notorious, market women ran to her office to report their fear when they saw him with a gun.<sup>87</sup> Further, Ms. Yeney testified

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NPFL forces on threat of death. See also TF1-532, TT, 10 March 2008, pp. 5648-51 and [REDACTED].

<sup>83</sup> In contrast to Taylor's transparently false denials of atrocities by the NPFL, Prosecution witness TF1-406, who had fought with the ULIMO-K faction, agreed that all factions in the Liberian conflict committed atrocities and used child soldiers (TF1-406, TT, 10 January 2008, pp. 987-89). See also TF1-367, TT, 20 August 2008, pp. 14079-81; [REDACTED]; Exh. P-31, p. 00026618; TF1-561, TT, 14 May 2008, pp. 9861-62: The witness testified that when he spoke to Taylor about Sankoh's complaint that the NPFL were involved in a lot of atrocities, including rape, looting and killing, Taylor said, "this type of thing must happen if you are fighting a war. You are not eating bread and butter, you are fighting."

<sup>84</sup> TF1-399, TT, 12 March 2008, pp. 5861-64, 5902-05, 5929-31, 5944-49.

<sup>85</sup> Accused, TT, 31 August 2009, pp. 28009-11: Zigzag Marzah was just an orderly to Benjamin Yeaten and Taylor never came into contact with him at all; Accused, TT, 29 September 2009, p. 29816: "It was in this courtroom that this boy you brought here called Zigzag Marzah - that I first laid my eyes on, and there will be witnesses that will come here and tell you this, that I saw this boy here calling himself Marzah."; Accused, TT, 29 September 2009, p. 29825: Taylor asked how an important commander such as Marzah ended up as an orderly cleaning Benjamin Yeaten's shoes; Accused, TT, 15 September 2009, p. 28863: Taylor said he first saw Zigzag Marzah in this Court and did not know him personally and when he saw Marzah in Court, he did not recognize him.

<sup>86</sup> Accused, TT, 28 January 2010, p. 34438: Taylor testified that he went out one day in 2003, saw a group of boys and asked Yeaten who they were. Yeaten responded that they were his orderlies and when Zigzag Marzah's face showed up here (in Court), he remembered.

<sup>87</sup> DCT-224, TT, 3 June 2010, p. 42093. The witness added that each time Zigzag entered a town, people ran into their houses and shut their doors. Numerous Prosecution witnesses corroborated Yeney's testimony regarding Zigzag's notorious reputation and testified further that Zigzag was sent to execute people for Taylor or his subordinate, Benjamin Yeaten. See for example TF1-597, TT, 2 June 2008, pp. 10661-62: the witness was told when he was in Liberia that Zigzag Marzah was the death squad commander; TF1-579, TT, 5 November 2008, pp. 19841-42: in the NPFL, Yeaten would turn people over to Marzah to execute; TF1-375, TT, 24 June 2008, pp. 12679-80, 12685-86: Zigzag Marzah was the Death Squad commander for Charles Taylor. Wherever Marzah went, one or two persons must be killed; TF1-539, TT, 10 June 2008, pp. 11413-15, 11420-21, 11424-26: Marzah told the witness he was the commander for the Death Squad and if he found out the witness was spying for the Kabbah government to see if the Ghankay government was supporting the RUF and SLA, he would kill him in an ugly manner, then showed the witness a photograph of a woman who had been killed for spying. (The photo was admitted as Exh. P-137.) When the witness and Marzah arrived at Yeaten's house behind White Flower, the security officers at the house saluted him and gave him a lot of respect that indicated Marzah was a "big man," a "prominent person"; TF1-568, TT, 12 September 2008, p. 16142:

that she was told by Yeaten that Marzah had arrested Sam Dokie and was told by others that Marzah had burnt Dokie and his family in a car.<sup>88</sup> Ms. Yeney testified she personally told the Accused that Marzah had told her he had arrested Dokie and that she begged Taylor to determine the whereabouts of the family.<sup>89</sup> Contrary to Taylor's testimony that Marzah was a mere orderly who shined shoes, Defence witness DCT-190 testified that when he was with the LURD rebels, they learned that Zigzag Marzah was a battalion commander who led Taylor's forces attacking Gueckedou<sup>90</sup> and Voinjama.<sup>91</sup> The evidence further shows that Taylor personally ordered Marzah released from detention when he was arrested by Benjamin Yeaten.<sup>92</sup>

27. The RUF's forced recruitment of child soldiers and terror tactics against the civilian population such as displaying the decapitated heads of victims on sticks in order to create fear, mirrored the tactics of the NPFL.<sup>93</sup> The Accused himself acknowledged that the NPFL displayed skulls at checkpoints, that these would instil fear, and said that he saw nothing wrong with that.<sup>94</sup>

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When Marzah came to Buedu, everyone rushed to see him because they had heard for a long time from Liberians who visited that Zigzag Marzah did away with all the enemies that Charles Taylor had; TF1-532, TT, 11 March 2008, pp. 5710-11: Zig Zag was an operations man for Taylor, which meant he was sent to execute people, and members of the NPFL were afraid of him because of these killings.

<sup>88</sup> DCT-224, TT, 3 June 2010, pp. 42091, 42093-94: the witness asked Benjamin (Yeaten) where her sister and brother-in-law had been detained and Benjamin called Zigzag Marzah, asking where he'd taken Dokie and his family. Marzah said he had taken them to the Post Stockade in Monrovia, but the witness did not find them there; DCT-224, TT, 3 June 2010, pp. 42094-95: some friends from Gbarnga told the witness the night the Dokies were caught, Zigzag and the others put them in a car, poured fuel on the car and burnt them.

<sup>89</sup> DCT-224, TT, 3 June 2010, pp. 42094-95: the witness asked Taylor to tell Benjamin Yeaten and Zigzag to show her the Dokies' whereabouts and the Accused said he would call the Nimbadians to the mansion. Shortly thereafter, Taylor announced that Dokie and his family were dead.

<sup>90</sup> DCT-190, TT, 25 June 2010, p. 43455.

<sup>91</sup> DCT-190, TT, 10 June 2010, p. 42504. This corroborated Prosecution witness testimony that Zigzag was a commander and/or involved in operations against the LURD: TF1-375, TT, 23 June 2008, pp. 12533 and 24 June 2008, pp. 12680-81: Marzah was in the AFL and at the same time was a colonel in the SSS. Marzah commanded troops in late 2002 in Operation No Monkey to move civilians from Belle Forest because LURD fighters were trying to get into Belle Forest to advance to Monrovia; TF1-579, TT, 5 November 2008, p. 19841: Zigzag Marzah was an SSS colonel; TF1-561, TT, 14 May 2008, p. 9885: Zigzag Marzah was one of the strong men in Jungle Fire, one of the commanders; TF1-539, TT, 10 June 2008, p. 11411: Marzah introduced himself to the witness as Colonel Marzah; TF1-516, 9 April 2008, pp. 6993-94: the commander the witness was instructed to report to in Foya was Zigzag Marzah.

<sup>92</sup> TF1-375, TT, 24 June 2008, pp. 12683-84.

<sup>93</sup> TF1-539, TT, 10 June 2008, pp. 11383-84: the witness, who was an SLA fighting the RUF in Kailahun District in the early 1990s, said he saw heads that had been cut off and planted on checkpoints—some had notes stuck in their mouths and the notes indicated the heads belonged to people who had been fighting with Sankoh and had betrayed him. The witness also saw some amputated limbs and said it was part of the guerrilla tactics to make the area fearful to advancing troops; DCT-172, TT, 12 August 2010, p. 46192; DCT-306, TT, 19 April 2010, p. 39266.

<sup>94</sup> Accused, TT, 16 July 2009, pp. 24622-24.



28. The evidence shows numerous examples of individuals moving fluidly between Taylor's Liberian forces and the RUF. Defence witness John Vincent said he was NPFL when recruited by another NPFL officer to the RUF where he served for years, then moved back to Taylor's elite SSS forces after taking part in a combined Liberian/RUF operation in Guinea.<sup>95</sup> Defence witness Sam Kolleh was captured by the NPFL in Gbarnga and taken to the NPFL part of Camp Naama for one or two months before being sent to the RUF section of the base for training.<sup>96</sup> Momoh Gibbah, one of Taylor's closest aides for years afterwards, trained with the Vanguarders at Naama,<sup>97</sup> yet Taylor still claimed to be unaware of a foreign army training at an NPFL base.<sup>98</sup> Jackson Swarray was RUF, then while recuperating from an injury in an NPFL hospital, was personally recruited by Taylor to join his bodyguard unit because of his physical resemblance to Taylor, then moved back to serve in the RUF's elite Black Guard unit.<sup>99</sup> When Sam Bockarie came to Liberia in late 1999, hundreds of RUF fighters were integrated into Taylor's ATU unit.<sup>100</sup> Key RUF officers came from the NPFL, including Superman, Isaac Mongor, CO Nya, John Kargbo, and Mike Lamin.<sup>101</sup>

#### **I.F. TAYLOR CREATED AND EFFECTIVELY CONTROLLED THE RUF**

**Q. When the RUF called Charles Taylor commander in chief what did that mean?**

**A. It means he had command over the RUF and we took it that the RUF belonged to him, although he sent somebody to head the RUF but he was the owner of the RUF. What I mean by saying that he sent somebody to help the RUF, that was Foday Sankoh because he was the one that prepared Foday Sankoh to carry out the mission. So the RUF was in the hands of Mr. Taylor.**

*- Isaac Mongor, former Acting Battlegroup Commander of the RUF,  
Testimony of 11 March 2008, p. 6229*

29. The evidence establishes that Taylor's influence and control of the RUF had its roots long before the Indictment period, at the very origins of the rebel movement. Both Prosecution and Defence witnesses have belied Charles Taylor's own testimony that he

<sup>95</sup> DCT-215, TT, 24 March 2010, pp. 37962-65 and 26 March 2010, pp. 38163-64.

<sup>96</sup> DCT-102, TT, 1 November 2010, pp. 48367-69 and 3 November 2010, pp. 48662-64.

<sup>97</sup> DCT-172, TT, 25 August 2010, pp. 47155-56.

<sup>98</sup> Accused, TT, 20 July 2009, p. 24758; Taylor testified that Naama was the largest military base in Liberia; Accused, TT, 16 July 2009, p. 24605.

<sup>99</sup> [REDACTED]; TF1-577, TT, 4 June 2008, pp. 10915-16; DCT-068, TT, 12 March 2010, p. 37190.

<sup>100</sup> Accused, TT, 17 August 2009, pp. 26874-75. See also TF1-338, TT, 10 July 2008, pp. 13441-52; TF1-585, TT, 11 September 2008, pp. 16005-08.

<sup>101</sup> DCT-172, TT, 11 August 2010, p. 46042 and 17 August 2010, p. 46436 and 25 August 2010, p. 47143; TF1-567, TT, 2 July 2008, p. 12873; TF1-375, TT, 24 June 2008, p. 12619; DCT-215, TT, 25 March 2010, pp. 37971-72, 37986; DCT-146, TT, 12 April 2010, p. 38748; TF1-367, TT, 20 August 2008, p. 14089.

played no part and had no knowledge of the RUF prior to the March 1991 invasion of Sierra Leone. The evidence shows that there is good reason why Taylor would deny these well-established historical facts from the pre-indictment period. The RUF was in fact a creation of Charles Taylor. Taylor was responsible for the recruitment, training and arming of the RUF forces and his experienced and ruthless NPFL forces led the RUF into Sierra Leone in March 1991.<sup>102</sup>

30. Witnesses called by both parties have testified that the original fighting force of the RUF was recruited from and trained in Liberia in territory controlled by Taylor.<sup>103</sup> The majority were Liberians<sup>104</sup> and most of the Sierra Leoneans who were in the group were persons who had been detained by Taylor's NPFL forces.<sup>105</sup> These "recruits" were only able to secure their release and avoid the threat of execution by agreeing to join the RUF. All of the recruits were transported through NPFL territory, passed through NPFL checkpoints and brought to an NPFL training base, Camp Naama, where a portion of the base and barracks were reserved for the RUF.<sup>106</sup> The RUF shared the camp with NPFL forces from at least August 1990<sup>107</sup> to March of 1991.<sup>108</sup> The camp was in the heart of NPFL territory and food and supplies desperately needed by Liberian civilians were regularly brought to the camp from such territory.<sup>109</sup> Both Prosecution and Defence witnesses named NPFL personnel (such as Mike Lamin, Isaac Mongor, P.I. Kongono, Sylvester Miller and Sam Draper) as being among those that

<sup>102</sup> DCT-215, TT, 30 March 2010, pp. 38304-06; TF1-532, TT, 1 April 2008, pp. 6337-38.

<sup>103</sup> See for example DCT-172, TT, 16 August 2010, p. 46391, TT, 5 July 2010, pp. 43596-98; DCT-292, TT, 1 June 2010, pp. 41704-08; DCT-146, TT, 1 April 2010, p. 38609; DCT-102, TT, 1 November 2010, pp. 48368-69; DCT-179, TT, 22 February 2010, pp. 35668-69; TF1-367, TT, 20 August 2008, pp. 14094-97.

<sup>104</sup> DCT-215, TT, 30 March 2010, pp. 38259-60: Three quarters of the original group trained in Naama were Liberians; DCT-172, TT, 5 July 2010, p. 43620; DCT-068, TT, 12 March 2010, pp. 37246: Witness says there were Liberians, but doesn't give a percentage; DCT-306, TT, 19 April 2010, pp. 39344; DCT-102, TT, 1 November 2010, pp. 48367-68: Witness was among the Liberian trainees; [REDACTED]

<sup>105</sup> Exh. P-565 (RUF Trial Transcript, 11 April 2008), pp. 50-53; [REDACTED]; DCT-172, TT, 16 August 2010, pp. 46396-99; [REDACTED]

<sup>106</sup> DCT-215, TT, 30 March 2010, pp. 38284-92; TF1-367, TT, 20 August 2008, pp. 14091-94; [REDACTED]; [REDACTED]; DCT-172, TT, 16 August 2010, pp. 46402.

<sup>107</sup> DCT-025, TT, 12 March 2010, p. 37251: the witness testified he was brought to the base on 28 August 1990.

<sup>108</sup> See for example DCT-025, TT, 17 March 2010, p. 37419; DCT-172, TT, 5 July 2010, pp. 43623-24; DCT-292, 1 June 2010, p. 41718.

<sup>109</sup> DCT-172, TT, 5 July 2010, pp. 43598, 43601, 43621-22 and 16 August 2010, p. 46409; DCT-299, TT, 16 June 2010, pp. 42687-88; DCT-292, TT, 1 June 2010, p. 41717-18; [REDACTED]

provided training for the RUF forces.<sup>110</sup> Further, Defence witnesses confirmed that the invasion of Sierra Leone was led by NPFL commanders such as Sam Tuah, Charles Timber, Anthony Mekunagbe, Oliver Varney and James Karway.<sup>111</sup>

#### **I.G. TAYLOR'S USE OF RUF SURROGATES IN GUINEA AND LIBERIA**

**The commander was Benjamin Yeaten. The field commander was Superman and then we had different commanders. I was a commander, Matthew Barbue was a commander, Mark Gwon was a commander. Then I think the operation was planned and signed by Issa Sesay and Benjamin Yeaten and then I think I gave a copy of that to the Prosecution. I wish you can help me with the copy to identify them to the judges.**

*- Abu Keita, Testimony of 28 January 2008 at p. 2052, referring to Exhibit P-28*

31. The RUF and later AFRC/RUF was ultimately Taylor's surrogate army as plainly demonstrated by the evidence that he used these forces to battle his own enemies in Guinea and Lofa County, Liberia, using the same terror tactics as those inflicted on the people of Sierra Leone. Numerous witnesses testified to the AFRC/RUF's role in fighting against Mosquito Spray and LURD rebels in Lofa County and in Guinea from 1999 to 2001.<sup>112</sup>
32. These battles outside Sierra Leone, which resulted in heavy losses for the AFRC/RUF, clearly served the interests of the Accused and had no independent benefit for the

<sup>110</sup> DCT-292, TT, 2 June 2010, p. 41867, 41862; DCT-102, TT, 4 November 2010, pp. 48670-71 and 3 November 2010, pp. 48659-60, 48668; TF1-532, TT, 10 March 2008, p. 5665; [REDACTED]

<sup>111</sup> DCT-172, TT, 26 July 2010, p. 44618 [REDACTED] and 16 August 2010, pp. 46420-21 and 17 August 2010, pp. 46432, 46437-38 and 25 August 2010, p. 47144. See also DCT-215, TT, 25 March 2010, p. 38021.

<sup>112</sup> TF1-367, TT, 21 August 2008, pp. 14253-60; TF1-338, TT, 1 September 2008, pp. 15117-18 and 2 September, pp. 15177-87 (see also Exh. P-167) and 3 September 2008, p. 15280 and 4 September 2008, pp. 15447-48 [REDACTED]; TF1-571, TT, 9 May 2008, pp. 9458-61, 9466-69 (Kanneh confused the year saying this was 1998 but the evidence in the case is clear that the first attacks by Taylor dissidents in Lofa County occurred in April and August (Mosquito Spray) 1999), 9473-78 and 12 May 2008, p. 9606; TF1-276, TT, 23 January 2008, pp. 2045-55 and 24 January 2008, pp. 2138-39; TF1-516, TT, 8 April 2008, pp. 6872-75, 6884-85 and 9 April 2008, pp. 7008-11, 7032-34, 7047-76, 7081-94 and 10 April 2008, p. 7268 and 14 April 2008, pp. 7387-97; TF1-360, TT, 6 February 2008, pp. 3273-75; TF1-375, TT, 24 June 2008, pp. 12617-23, 12664-66; TF1-399, TT, 12 March 2008, pp. 5922-23, 5931; TF1-532, TT, 31 March 2008, pp. 6163-64; TF1-406, TT, 9 January 2008, pp. 859-61 and 10 January, pp. 898-900 and 14 January 2008, pp. 1151, 1173; TF1-539, TT, 11 June 2008, pp. 11541-42; TF1-274, TT, 2 December 2008, pp. 21489-90; Corinne Dufka, TT, 22 January 2008, pp. 1847-48; TF1-114, TT, 15 January 2008, p. 1278; TF1-334, TT, 24 April 2008, pp. 8509-10, 8515-16; TF1-568, TT, 12 September 2008, pp. 16131-32 and 16 September 2008, pp. 16305-11 and 17 September 2008, pp. 16456-58; TF1-567, TT, 7 July 2008, pp. 13107-09 and 8 July 2008, pp. 13198-200 [REDACTED]

[REDACTED]; TF1-045, TT, 17 November 2008, p. 20440 and 18 November 2008, pp. 20506-07; TF1-585, TT, 8 September 2008, pp. 15732-34; TF1-577, TT, 5 June 2008, pp. 11099-102 and 9 June 2008, p. 11330; TF1-561, TT, 15 May 2008, pp. 9956-57. See also Exh. D-357 regarding looting by undisciplined and aggressive Liberian government security forces after an April 1999 attack in Voinjama; and Exh. P-585, which reports that, in an attack on Gueckedou, Liberian and Sierra Leonean rebels burned many homes and public buildings and "bodies littered the streets."

AFRC/RUF other than to please and preserve the power of their master and principal benefactor. Several witnesses testified that they themselves were sent on these missions and testified to the attacks being coordinated with Taylor's forces.<sup>113</sup>

33. Further, while the Accused denied any assistance from the AFRC/RUF, his testimony was contradicted by his own witnesses who confirmed that the AFRC/RUF was fighting in Guinea and Liberia.<sup>114</sup> One Defence witness, John Vincent, testified that he took part in fighting against LURD outside Sierra Leone. Vincent testified that the RUF and Taylor's AFL joined forces to attack Gueckedou and other towns in Guinea after the Lomé Accord.<sup>115</sup> The instruction from Issa Sesay to his forces was to take all orders from the Liberian government commander.<sup>116</sup> Exhibit P-28 provides documentary proof that the AFRC/RUF subordinated itself to Taylor's forces while assisting in fighting Taylor's enemies inside Liberia. That document, dated 20 January 2001, was provided by Abu Keita, one of the commanders named in the document.<sup>117</sup> Multiple witnesses have identified both Yeaten's signature<sup>118</sup> and Sesay's signature<sup>119</sup> on the document.

<sup>113</sup> See for example TF1-367, TT, 21 August 2008, pp. 14254, 14257-60; TF1-399, TT, 12 March 2008, pp. 5922-23, 5931 and 5950-51; TF1-568, TT, 16 September 2008, pp. 16305-11; TF1-375, TT, 24 June 2008, pp. 12617-23; TF1-045, TT, 17 November 2008, p. 20440 and 18 November 2008, pp. 20506-07; TF1-571, TT, 9 May 2008, pp. 9458-61, 9466-69 (The witness confused the year saying this was 1998 but the evidence in the case is clear that the first attacks by Taylor dissidents in Lofa County occurred in April and August (Mosquito Spray) 1999), 9473-78 and 12 May 2008, p. 9606; TF1-276, TT, 23 January 2008, pp. 2045-55 and 24 January 2008, pp. 2138-39; TF1-516, TT, 8 April 2008, pp. 6872-75, 6884-85 and 9 April 2008, pp. 7008-11, 7032-34, 7047-76, 7081-94 and 10 April 2008, p. 7268 and 14 April 2008, pp. 7387-97; TF1-114, TT, 15 January 2008, p. 1278.

<sup>114</sup> Accused, TT, 28 October 2009, pp. 30598-99, 30627; This denial is contradicted by other Defence witnesses, see for example DCT-146, TT, 12 April 2010, pp. 38758-59; DCT-292, TT, 1 June 2010, pp. 41805-06; DCT-299, TT, 24 June 2010, pp. 43394-95; DCT-102, TT, 5 November 2010, pp. 48852-54; DCT-215, TT, 30 March 2010, p. 38260.

<sup>115</sup> DCT-215, TT, 26 March 2010, pp. 38161-62.

<sup>116</sup> DCT-215, TT, 26 March 2010, p. 38162: the instruction from Issa to Matthew Barbue (commander of the RUF forces on the operation) was that whatever plan came from Joe Kwame (leader of the AFL forces on the operation), they should all work together to accomplish that aim.

<sup>117</sup> TF1-276, TT, 23 January 2008, p. 2052. For more detail on this operation to take Gueckedou and Keita's comments regarding Exh. P-28, see pp. 2051-54.

<sup>118</sup> TF1-406, TT, 9 January 2008, pp. 861-62. Also, Defence witness DCT-179 identified Yeaten's signature on the back of his SSS identification card, Exh. D-104B, which appears identical to the signature for Yeaten on Exh. P-28. See DCT-179, TT, 1 March 2010, pp. 36321-23. Smythe also identified Yeaten's signature on Exh. D-105B.

<sup>119</sup> Two Defence witnesses, DCT-292 (TT, 3 June 2010, p. 42036) and DCT-215 (DCT-215, TT, 31 March 2010, pp. 38435-37) recognized Sesay's signature on the document. Sesay himself, when shown several of his signatures and asked to identify which were his, recognized the signature from P-28 (signature #4 on Exh. P-582) as his own (see DCT-172, TT, 25 August 2010, pp. 47061-62, 47084-86).

## I.H. TAYLOR'S FAITHFUL COMMANDER

**"If Sam Bockarie had a tank that I wanted, I would have sent for it."**

*- Charles Taylor, Testimony of 28 October 2009, p. 30632*

34. Of all the rebel commanders, Sam Bockarie earned the most notorious reputation for his merciless use of violence to terrorize both civilians and his own subordinates. Bockarie, according to Defence witness Issa Sesay, was proud of the fact that others feared him, as it made him "feel powerful of himself."<sup>120</sup> Sesay explained that when Bockarie ordered the mass executions of men he suspected of having been Kamajors in the centre of Kailahun town, he also ordered that their bodies not be buried but left exposed.<sup>121</sup> Sesay acknowledged that Bockarie would make threats over the international media such as "I'll kill and kill, and the more they tell me to stop, the more I'll kill."<sup>122</sup> The evidence shows that Bockarie even ordered that a 1-year-old child be buried alive.<sup>123</sup> One Defence witness, a former RUF member, described Bockarie as "the devil,"<sup>124</sup> and another said he was simply "a wicked commander."<sup>125</sup>
35. In Sierra Leone, unfortunately, Bockarie's use of terror was effective in accomplishing the strategic goals of the rebels directed by Taylor. After the ECOMOG Intervention drove the Junta out of the capital, Bockarie took command and re-organized the AFRC/RUF forces that retreated to the east of the country. With the material assistance facilitated by Taylor, Bockarie directed the AFRC/RUF offensive in December 1998 and January 1999, which captured large parts of the country including Koidu, Makeni, the diamond mines in Kono and Tongo Fields, and led to the destruction and atrocities in the January invasion of Freetown.
36. Charles Taylor, however, viewed Bockarie "like a son" and said he "loved that boy."<sup>126</sup> The evidence shows that even after Bockarie's very public threats to attack Freetown in December 1998 and to burn the city in January 1999, Taylor gave Bockarie refuge and citizenship in Liberia, refused to turn him over to the Sierra Leone government, rewarded him with a four-house compound, a vehicle and a US \$1,000 a month salary

<sup>120</sup> DCT-172, TT, 13 August 2010, p. 46218.

<sup>121</sup> DCT-172, TT, 13 August 2010, p. 46209.

<sup>122</sup> DCT-172, TT, 13 August 2010, p. 46219.

<sup>123</sup> TF1-584, TT, 19 June 2008, pp. 12302-09; [REDACTED]; DCT-172, TT, 13 August 2010, pp. 46213-17 and 26 August 2010, pp. 47240-43.

<sup>124</sup> DCT-306, TT, 13 April 2010, pp. 38884-85.

<sup>125</sup> DCT-146, TT, 12 April 2010, p. 38660.

<sup>126</sup> Accused, TT, 26 October 2009, pp. 30220-21.

when many Liberians were homeless and malnourished.<sup>127</sup> Bockarie, Taylor admitted, called him “Papay”<sup>128</sup> and one letter from Bockarie to Taylor closed, “your obedient son.”<sup>129</sup> Taylor used Bockarie to fight Taylor’s internal enemies in Lofa County in 1999<sup>130</sup> and later sent him to lead forces destabilizing yet another neighbour, the Ivory Coast.<sup>131</sup> Taylor used the most ruthless and barbaric fighters, such as Zigzag Marzah and Bockarie, knowing that they would inflict merciless violence on civilians because they were effective in terrorizing Taylor’s enemies and accomplishing his goals. In his own testimony, Taylor denied the statements of Prosecution witnesses that he had asked the RUF in Sierra Leone to accept the notorious Bockarie back into their ranks.<sup>132</sup> But Taylor’s denials on this key point were contradicted by his own witnesses. DCT-292 and the star Defence witness, Issa Sesay, proved Taylor lied on this point as both admitted to being present when Taylor did indeed ask the RUF to take the notorious Bockarie back into their ranks.<sup>133</sup>

<sup>127</sup> Accused, TT, 10 September 2009, pp. 28633-35 & 26 October 2009, p. 30201: stating he leased a compound for Bockarie and his entourage in December 1999 & 26 November 2009, pp. 32569-71; Exh. D-232, p. 2: wherein it is reported the Accused stated that “if I don’t give that boy money, he does not eat”, referring to Bockarie.

<sup>128</sup> Accused, TT, 20 August 2009, p. 27386.

<sup>129</sup> Exh. P-66: this document from Bockarie to Taylor, dated 24 June 1998, says they appreciate the assistance they have been receiving and asks for ammunition and money.

<sup>130</sup> TF1-334, TT, 24 April 2008, pp. 8509-10, 8515-16; [REDACTED]; TF1-571, TT, 9 May 2008, pp. 9458-61 (The witness confused the year saying this was 1998 but the evidence in the case is clear that the first attacks by Taylor dissidents in Lofa County occurred in April and August (Mosquito Spray) 1999) and 12 May 2008, p. 9606; TF1-276, TT, 23 January 2008, pp. 2045-47 and 24 January 2008, pp. 2138-39; TF1-516, TT, 8 April 2008, pp. 6872-75 and 9 April 2008, pp. 7047-49; TF1-360, TT, 6 February 2008, pp. 3273-74; TF1-375, TT, 24 June 2008, pp. 12617-23; TF1-532, TT, 31 March 2008, pp. 6163-64; TF1-539, TT, 11 June 2008, p. 11541; TF1-274, TT, 2 December 2008, p. 21489; [REDACTED]; TF1-045, TT, 17 November 2008, p. 20440; TF1-585, TT, 8 September 2008, pp. 15732-34; TF1-577, TT, 5 June 2008, pp. 11099-102; TF1-561, TT, 15 May 2008, pp. 9956-57.

<sup>131</sup> TF1-388, TT, 11 July 2008, pp. 13510-14; [REDACTED];

[REDACTED]. See also [REDACTED]; TF1-326, TT, 21 January 2008, pp. 1704-05.

<sup>132</sup> Accused, TT, 19 August 2009, pp. 27192-93: When asked if he suggested that Mosquito be taken back, Taylor answered, “No, I did not suggest that.” See also the testimony of two Prosecution witnesses regarding the suggestion which Taylor denied making: TF1-338, TT, 2 September 2008, p. 15148 and TF1-532, TT, 31 March 2008, pp. 6185-87.

<sup>133</sup> DCT-292, TT, 1 June 2010, pp. 41789-92, 41796-99: Further, the witness agreed that the Accused encouraged Sesay and Bockarie to work together because in their unity the RUF would be stronger, and that Taylor would have less pressure from the international community because Bockarie would no longer be residing in Liberia; DCT-172, TT, 23 August 2010, pp. 46926-30.

## I.I. TAYLOR'S EFFORTS TO CONCEAL HIS CRIMES

**I think the Sorious report is available, and why it was - I mean, they were arrested, those journalists were arrested. In fact, the camera - we were told that the camera that was supposed to be used for this so-called documentary where they insisted on interviewing me contained some beam or something that fired at me would, over a period of time, lead to cancer that - we were told by a major western intelligence source.**

*- Charles Taylor, Testimony of 27 August 2009, p. 27906*

37. From the creation of the RUF, the Accused made efforts to conceal his links to the rebels and his role in the crimes in Sierra Leone. Taylor's efforts to avoid responsibility through lies and denials continued through his own testimony in this case, which was replete with internal contradictions and repeatedly contradicted by his own witnesses.<sup>134</sup>
38. Taylor publicly portrayed himself as a peacemaker and took active efforts to conceal his support for the RUF and AFRC. Trainees at Camp Naama were told to refer to the base as Camp Sokoto, the name of a military camp in Nigeria.<sup>135</sup> Those who threatened to expose Taylor's links to the RUF were arrested, tortured or killed. Examples include Hassan Bility, a Liberian journalist tortured by Taylor's agents after writing a story revealing Liberian links to the RUF;<sup>136</sup> Witness TF1-590, who was accused of being a Kamajor spy, tortured and threatened with execution by Charles Taylor himself;<sup>137</sup> and a woman in Monrovia who was suspected of trying to learn of the relationship between Taylor's government and the RUF and was executed by Marzah.<sup>138</sup> A telling example of the Accused's efforts to hide his links to the RUF was the arrest of Sorious Samura and other journalists working on a British television documentary investigating the links between Taylor and RUF diamonds. Taylor's explanation for the arrest in his testimony is further proof of his belief that he can avoid any responsibility by simply repeating denials that are transparently incredible. Taylor claimed during direct examination that he arrested the journalists because he had been informed by French and American intelligence agencies that the camera they planned to use had a cancer-causing beam.<sup>139</sup> He attempted to bolster this obvious lie on redirect by saying that the intelligence

<sup>134</sup> See Section X.B. entitled "Liar" for further detail.

<sup>135</sup> [REDACTED]. See also TF1-275, TT, 20 February 2008, p. 4374; TF1-274, TT, 1 December 2008, pp. 21300-01; DCT-025, 12 March 2010, p. 37251; DCT-062, TT, 21 April 2010, pp. 39601-02 and [REDACTED]; DCT-215, TT, 25 March 2010, pp. 37993-94 and 30 March 2010, pp. 38279-80.

<sup>136</sup> TF1-355, TT, 12 January 2009, pp. 22332-44 and 13 January 2009, pp. 22384-91.

<sup>137</sup> TF1-590, TT, 13 June 2008, pp. 11816-24.

<sup>138</sup> TF1-539, TT, 10 June 2008, pp. 11459-61.

<sup>139</sup> Accused, TT, 27 August 2009, pp. 27906-07 and 18 November 2009, p. 32091.

agencies had given the example of the assassination of Ahmed Shah Massoud in Afghanistan by a bomb hidden in a camera.<sup>140</sup> However, the assassination of Massoud occurred in September 2001,<sup>141</sup> more than a year *after* the August 2000 arrest of Samura, demonstrating again Taylor's willingness to knowingly invent facts under oath in order to hide the truth about his role in the crimes charged.

39. When the Special Court for Sierra Leone was established to bring to justice those most responsible for the crimes, Taylor made efforts to destroy the evidence of his links to the rebels. In early 2001, he ordered the killing of RUF commander Dennis Mingo.<sup>142</sup> In January 2003, Johnny Paul Koroma, former leader of the AFRC, sought refuge in Liberia but was arrested by Taylor's men and executed.<sup>143</sup> An indictment against Taylor's favourite RUF general, Sam Bockarie, was unveiled in March 2003.<sup>144</sup> In May of that year, Bockarie, his wife, mother, children, and many supporters were executed on Taylor's orders.<sup>145</sup> Later that year, Taylor's men killed Daniel Tamba,<sup>146</sup> a key liaison between Taylor and the RUF throughout the Indictment period.

<sup>140</sup> Accused, TT, 16 February 2010, p. 35073.

<sup>141</sup> Exh. P-505A; Exh. P-505B; Exh. P-505C.

<sup>142</sup> TF1-399, TT, 12 March 2008, pp. 5926-31; [REDACTED];

[REDACTED]. See also DCT-102, TT, 5 November 2010, pp. 48898-900; TF1-276, TT, 23 January 2008, pp. 2063-66; TF1-516, TT, 9 April 2008, pp. 7096-99.

<sup>143</sup> TF1-399, TT, 12 March 2008, p. 5936-37; [REDACTED];

[REDACTED]; TF1-561, TT, 15 May 2008, pp. 9998-10000.

<sup>144</sup> Exh. P-459, p. 1: reports that the first seven indictments for the Special Court for Sierra Leone were announced on 10 March 2003. Included in the seven were Bockarie, Sankoh, Sesay, and Kallon. An international arrest warrant for Bockarie was issued and further indictments were expected; Exh. P-460 reports that Sam Hinga Norman, DCT-172, and Morris Kallon had been detained by the Sierra Leone tribunal and that the chief prosecutor called on West African countries harbouring Sam Bockarie and Johnny Paul Koroma to hand them over. Taylor denied knowing in May 2003 that Sam Bockarie had been indicted (see Accused, TT, 4 November 2009, pp. 31136-37).

<sup>145</sup> See for example DCT-102, TT, 5 November 2010, pp. 48891-98; DCT-292, TT, 1 June 2010, pp. 41800-01: stating Sierra Leoneans heard the Accused had killed Bockarie; TF1-585, TT, 9 September 2008, pp. 15768-72: stating Bockarie was killed by "50" on the Accused's order; [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13048-49 and 8 July 2008, pp. 13148-50; TF1-367, TT, 21 August 2008, pp. 14264-65; Exh. P-117; Exh. D-46, p. 00001329: the autopsy report establishing Bockarie was shot dead on 6 May 2003; TF1-388, TT, 16 July 2008, pp. 13861-62, 13684-65: stating some 200 people were killed along with Bockarie, including RUF and SLA soldiers. The Accused had all of these people killed in order to destroy evidence that there were Sierra Leoneans in the ATU, especially RUF; [REDACTED];

[REDACTED]; TF1-276, TT, 12 May 2008, pp. 9492-94, 9496-97.

<sup>146</sup> TF1-579, TT, 6 November 2008, pp. 19997-20001; TF1-388, TT, 14 July 2008, pp. 13580-82; TF1-399, TT, 12 March 2008, pp. 5931-35; [REDACTED]. See also DCT-215, TT, 31 March 2010, pp. 38368-70 and DCT-008, TT, 30 August 2010, pp. 47509-12.



## I.J. JUSTICE FOR THOSE WHO PROMOTED THE CRIMES

**Then my brother came to me and said, "Hey, Pa Sheriff, I have come to die for you." They cut off all his ten fingers. When they finished they took those ten fingers and they said Peleto was going to make a chain out of it. Oh, Father God. When they put the fingers in the cup then they shot him. They shot him and he died on the spot and they went. [...] God will pay the promoters of these rebels in Sierra Leone. I am an innocent man. My brother was an innocent man. But now we are suffering. We suffered for nothing. God will bring judgment upon the promoters in this country. All those who promoted the rebels in Sierra Leone, those who have caused our suffering today ...**

*- Patrick Sheriff, TT, 1 October 2008, p. 17792*

40. This closing Brief summarizes points in the evidence from 115 witnesses (94 called by the Prosecution and 21 by the Defence) contained in 1093 exhibits and a trial transcript that is now over 49,000 pages long. Given the length and complexity of the case, it is not of course possible to deal with all of the relevant evidence. This Brief begins with a discussion of the key evidence in the case proving Charles Taylor's unique and critical contributions to the crimes, from his creation of the RUF army at Camp Naama in 1990 to his efforts to support the RUF in its terror campaign throughout the Indictment period. This Brief further discusses how Taylor benefited from the crimes, the evidence showing how the RUF coordinated its campaign with elements of the army after the May 1997 coup and the creation of the AFRC, including the key coordinated actions during the offensive from December 1998 through February 1999 that included the Freetown invasion. Relying on the evidence of crime victims, perpetrators, experts and documents, the Brief describes how the elements for each of the 11 counts have been proven. This evidence shows that the suffering inflicted upon the many thousands of victims in Sierra Leone that occurred on such a wide scale did not just "happen." Rather, the atrocities were part of a policy of terror by an army created, supported and controlled by the Accused, Charles Taylor, who brought the bitterness of war to Sierra Leone. Patrick Sheriff and the tens of thousands or other victims of Taylor's sponsorship of the rebel war look to this Court to find the truth.

## I.K. INTRODUCTION TO THE PROSECUTION FINAL TRIAL BRIEF

### General

41. The Prosecution files this Brief<sup>147</sup> pursuant to Rule 86(B) and the Scheduling Order.<sup>148</sup> The evidence presented in this case establishes the guilt of the Accused as charged in the Indictment beyond reasonable doubt. Given the considerable volume of evidence led in this case, documentary and testimonial, from both the Prosecution and the Defence in support of the Accused's guilt, it is not possible within the page limit to summarise all the relevant evidence. Therefore, this Brief discusses only some of the most relevant evidence and is a comprehensive but not exhaustive recitation and examination of the evidence. In support of the guilt of the Accused, reliance is placed on the relevant evidence contained in the record as a whole.
42. A key feature of the Prosecution evidence is its overall coherence and consistency, as demonstrated by the support provided by Defence witnesses and exhibits.<sup>149</sup> This feature extends to the evidence provided by Prosecution insider witnesses including those who may be categorized as "accomplice witnesses."<sup>150</sup> The Defence had ample opportunity to test this insider/accomplice evidence via full cross-examination<sup>151</sup> assisted by disclosure of prior statements, prior testimony, WVS and OTP disbursements and/or other material disclosed under Rules 66 and 68. The evidence of these witnesses, however, remained unshaken and the Prosecution case undisturbed.<sup>152</sup>

<sup>147</sup> The Prosecution wishes to thank the Chief of Prosecutions, James Johnson, for his invaluable assistance in the writing of this Brief. We also wish to express our gratitude to former Prosecution team member and consultant Alain Werner and former Prosecution team members Shyamala Alagendra, Julia Baly, Kirsten Keith, Ann Sutherland, Nina Jorgensen and Sigall Horovitz. The Prosecutor also wishes to acknowledge the tireless assistance and dedication of the following interns who provided essential assistance in the writing of this Brief: Gil Shefer, Philipp Richter, Nadeah Vali, David Tait, James Pace, Katerina Kappos, Jaqueline Greene, Lena Sokolic, Gordon Brandt and Imogen Parmar.

<sup>148</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1105, Order Setting a Date for Closure of the Defence case and dates for Filing Final Trial Briefs and the Presentation of Closing Arguments, 22 October.

<sup>149</sup> Corroboration of the Prosecution's case has been provided in large part by Defence witnesses and exhibits as evidenced throughout this Brief.

<sup>150</sup> AFRC Appeals Judgement, para. 127. Note in certain instances abbreviated versions of case citations have been used in the body of the Brief. See Index of Authorities for complete case citations.

<sup>151</sup> All the Prosecution's insider/accomplice witnesses testified *viva voce*.

<sup>152</sup> Consideration of the evidence of such insiders/accomplices is in the "interests of justice" (see *Prosecutor v. Ngeze et al.*, ICTR-99-52-I, Decision on the Defence Request to Hear the Evidence of Witness Y by Deposition, Trial Chamber, 10 April 2003, para. 7). The evidence of such witnesses is not *per se* unreliable, especially where they may be thoroughly cross examined (*Prosecutor v. Krajišnik*, IT-00-39-A, Judgement, 17 March 2009, para. 146) but the Trial Chamber must be mindful of the danger of accepting uncorroborated information from such a witness and it should be examined "with caution" (RUF Trial Judgement, paras. 498, 540).

43. All particulars in the Indictment including the crime base are in dispute. Despite Defence statements that it “do[es] not and never [has] taken issue with the fact that terrible things, atrocities, were committed in Sierra Leone” and that the case “should solely have been about who bore the greatest responsibility,”<sup>153</sup> the Defence did not and never has taken any steps to agree to the crime base<sup>154</sup> and thus focus the case on the link to the Accused.<sup>155</sup> The Defence’s failure to take any constructive steps to narrow the disputed issues combined with its opposition to the admission of all save two of the predominantly crime base witnesses’ prior testimony under Rule 92bis<sup>156</sup> required the Prosecution to bring witnesses to The Hague to give “evidence about the horror of their experience”<sup>157</sup> in order to discharge its burden of proof on this disputed portion of the case.
44. Rather than rehearsing well established law, in setting out the applicable law the Prosecution relies upon the law as articulated in the Appeal and Trial Judgements of the Special Court. When relying upon those Judgements, the Prosecution incorporates by reference the jurisprudence relied upon by the Appeal and Trial Chambers. Specific submissions are made only where there has been a notable development in the jurisprudence and/or whether there is some divergance of approach in the jurisprudence.
45. Certain terms used in this Brief have been defined as set out in the glossary provided in the annex.

Evidence of Acts Occurring Outside the Temporal or Geographic Scope of the Indictment or Jurisdiction of the Court

46. The Indictment Crimes did not happen overnight. Evidence of their course of development and the vital multi-faceted role played by Taylor including during the pre-Indictment Period is crucial to discharging the Prosecution’s burden of proof. Therefore, in order to discharge this burden in relation to the Indictment Crimes, the

<sup>153</sup> Defence Opening Statement, TT, 13 July 2009, p. 24295.

<sup>154</sup> Note Justice Sebutinde’s comments at TT, 14 February 2008, p. 3857: “Could we also observe, Mr. Griffiths, that the Defence has not agreed to the crime basis in the agreed facts for the Prosecution. If you had, we might not be having this conversation.”

<sup>155</sup> The Defence stance has shifted during the course of the trial, from the position that only the link was in dispute, to cross-examining witnesses about the crime base, to latterly the claim that the campaign of terror (as Count 1, a very obvious part of the crime base) is also now disputed (see TT, 14 February 2008, p. 3888; TF1-189, TT, 18 September 2008, pp. 16566-76: whether rape occurred in the bush or the living room & TT, 19 April 2010, pp. 39254-55).

<sup>156</sup> The Defence did not oppose the admission of the evidence of TF1-081 and TF1-169 entirely under Rule 92bis.

<sup>157</sup> Defence Opening Statement, TT, 13 July 2009, p. 24296.

Prosecution has led evidence of events, incidents and conduct (including criminal conduct) from outside the temporal and/or geographic scope of the Court's jurisdiction and/or the Indictment. The admission of such evidence does not encroach on the fundamental legal principle which is that the Accused can only be convicted of those crimes charged in the Indictment.<sup>158</sup>

47. Rather, relevant evidence from outside the temporal and/or geographic scope of the Court's jurisdiction and/or indictment may be admitted *and* relied upon<sup>159</sup> by a Trial Chamber for multiple purposes including:

- (a) prove by inference the elements (in particular, criminal intent) of the criminal conduct (i.e. elements of crimes and individual criminal responsibility) occurring during the temporal jurisdiction of the court;<sup>160</sup>
- (b) establish the contextual elements of Arts. 2, 3 and 4 of the Statute;<sup>161</sup>
- (c) demonstrate a deliberate or consistent pattern of conduct,<sup>162</sup> which can be relied upon to establish intent,<sup>163</sup> specific offences, including a campaign of

<sup>158</sup> RUF Trial Judgement, para. 480; AFRC Trial Judgement, paras. 37-38.

<sup>159</sup> RUF Trial Judgement, para. 482; *Prosecutor v. Kupreškić et al.*, IT-95-16-A, Appeal Judgement, 23 October 2001, para. 321; *Nahimana* Appeal Judgement, para. 315; Tolimir Preliminary Motions Decision, para. 47; and *Prosecutor v. Prlić et al.*, IT-04-74-T, Decision on Slobodan Praljak's Motion for Clarification of the Time Frame of the Alleged Joint Criminal Enterprise, 15 January 2009, p. 9. Note also that the Defence has been on notice since the outset of this trial that the Prosecution would seek to lead this type of evidence (see e.g. Pre-Trial Brief). Thus, the Accused's ability to defend himself has not been materially impaired.

<sup>160</sup> *Nahimana* Appeal Judgement, para. 315 citing *inter alia* Ngeze & *Nahimana* Shahabuddeen Opinion, paras. 9-17. See following examples of where evidence has been so used: *Prosecutor v. Kunarac*, IT-96-23-T & IT-96-23/1-T, Judgement, 22 February 2001, paras. 589, 591 (accused's knowledge of and willing participation in attacks); *Nahimana* Appeal Judgement, paras. 560 & 561 confirming approach taken in *Prosecutor v. Nahimana et al.*, ICTR-99-52-T, Judgement, 3 December, 2003, paras. 697, 701, 967 & 969 (evidence of genocidal intent based on facts from outside the Tribunal's temporal jurisdiction); *Prosecutor v. Strugar*, IT-01-42-T, Decision on the Defence Objection to the Prosecution's Opening Statement Concerning Admissibility of Evidence, 22 January 2004, p. 2 (evidence admitted of the conduct of the accused's subordinates prior to the temporal scope of the indictment for the purpose of proving that Strugar had the required *mens rea* for command responsibility); *Prosecutor v. Martić*, IT-95-11-T, Judgement, 12 June 2007, para 448 (evidence outside the temporal jurisdiction of the Tribunal to establish an accused's early contacts with other members of a JCE); RUF Trial Judgement, para. 482.

<sup>161</sup> AFRC Trial Judgement, paras. 37-38.

<sup>162</sup> Rule 93(A) of the Rules. See also *Nahimana* Appeal Judgement, para. 315. Rule 93 evidence is not limited to the acts of the accused and has been extended to acts of an accused's subordinates (see *Prosecutor v. Galić*, IT-98-29-T, Judgement and Opinion, 5 December 2003, paras. 208, 582-594; *Galić* Appeal Judgement, para. 219) and non-subordinate members of the organized armed group to which the Accused belongs (RUF Trial Judgement, paras. 1615 & 1745). Pattern evidence can extend to evidence of prior criminal acts in certain circumstances (*Prosecutor v. Bagosora et al.*, ICTR-98-41-AR93 & ICTR-98-41-AR93.2, Decision on Prosecutor's Interlocutory Appeals Regarding Exclusion of Evidence, 19 December 2003, para. 17 & *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 September 2003, para. 38.

<sup>163</sup> *Prosecutor v. Kayishema & Ruzindana*, ICTR-95-1-A, Judgement, 1 June 2001, paras. 158-159.

terror<sup>164</sup> and the use of child soldiers<sup>165</sup> and modes of liability charged in an indictment including command responsibility;<sup>166</sup> and/or

(d) provide the context in which the offences are said to have been committed.<sup>167</sup>

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<sup>164</sup> *Galić* Appeal Judgement, para. 219; *Prosecutor v. Kvočka et al.*, IT-98-30/1-A, Judgement, 28 February 2005, para. 71 (use of evidence of unscheduled incidents as corroborating evidence of a consistent pattern of conduct).

<sup>165</sup> RUF Trial Judgement, paras. 1615, 1745.

<sup>166</sup> *Prosecutor. Baglishema*, ICTR-95-1A-T, Judgement, 7 June 2001, para. 50; See also the present proceedings where the Prosecution was permitted pursuant to Rule 93(A) to question a witness (TT, 5 November 2008, pp. 19798-800).

<sup>167</sup> CDF Trial Judgement, paras. 60-64; RUF Trial Judgement, para. 482; *Ngeze & Nahimana* Shahabuddeen Opinion, paras. 23 & 21; *Nahimana* Appeal Judgement, para. 315; *Prosecutor v. Gotovina et. al.*, IT-06-90-T, Decision on Defendant Ante Gotovina's Motion for Admission of Evidence of One Witness Pursuant to Rule 92bis, 16 September 2009, para. 6; Tolimir Preliminary Motions Decision, paras. 41, 43, 47.

## II. TAYLOR'S RESPONSIBILITY FOR THE CRIMES IN SIERRA LEONE

**"I did not go in the hall, but I was in charge of it from outside."**

- Charles Taylor, *Testimony of 14 July 2009*, p. 24416

*The Accused is individually criminally responsible for instigating, ordering, planning, aiding and abetting the crimes alleged in the Second Amended Indictment, for commission of those crimes through his participation in a common plan, design or purpose (JCE) – both basic and extended, and, as a superior with effective control who knew or should have known of the crimes, and failed to prevent or punish those crimes*

48. Taylor did not go inside Sierra Leone during the time of the charged offences, but from the outside he was responsible for those crimes through his participation, involvement, concerted action with and command over the criminal conduct of his proxy armies, the RUF and later AFRC/RUF. The evidence in this case proves beyond reasonable doubt that the Accused's criminal participation, involvement, concerted action with the RUF, and later with the AFRC/RUF alliance, in all its manifestations, was instrumental to the continued existence of these groups, and to the ability of these groups to carry out a campaign of terror in Sierra Leone, encompassing all the crimes charged in the Indictment.
49. Throughout the conflict Taylor acted as the "chief," "father," and "godfather" to the RUF and later AFRC/RUF, his proxy forces in Sierra Leone. From creating a viable RUF until the end of the conflict in Sierra Leone, Taylor's participation, involvement, concerted action with these proxy forces took many forms, all of them vital to the continued existence and viability of these forces and their ability to carry out the campaign of terror they waged against the civilian population of Sierra Leone throughout the conflict: strategic instruction, direction, guidance,<sup>168</sup> maintaining an effective RUF, AFRC/RUF alliance,<sup>169</sup> providing vital arms and ammunition,<sup>170</sup> manpower,<sup>171</sup> creating and maintaining a linked communications network,<sup>172</sup> providing

<sup>168</sup> See Section II.A, B, II. B, C and VIII.

<sup>169</sup> See Section II.C.

<sup>170</sup> See Section II.D.

<sup>171</sup> See Section II.E.

<sup>172</sup> See Section II.F.

safe haven,<sup>173</sup> other support,<sup>174</sup> and exercise of strategic command<sup>175</sup> over these forces, either individually or in concert with or through the on-the-ground leaders of his proxy forces in Sierra Leone. By 30 November 1996, the Accused had been participating, involved, acting in concert with the RUF for many years, in the many forms mentioned above. This multifaceted participation, involvement, concerted action with the RUF and later the AFRC/RUF, continued beyond November in 1996 and throughout the remainder of the conflict in Sierra Leone, making it possible for the RUF and later the AFRC/RUF alliance to continue its campaign of terror against the civilian population of Sierra Leone in order to pillage the resources of Sierra Leone, in particular the diamonds, and to forcibly control the population and territory of Sierra Leone.

50. Sections II through VIII below provide a comprehensive, but by no means exhaustive, analysis of, and examples of, the Accused's criminal participation, involvement, concerted action with the RUF, and later the AFRC/RUF alliance, in all its manifestations, proving beyond reasonable doubt his guilt with regard to all forms of liability alleged. As noted above, the Prosecution relies on all the evidence, both *viva voce* testimony and exhibits.

#### **II. A. TAYLOR WAS THE "CHIEF," "FATHER," "GODFATHER," OF HIS PROXY FORCES THE RUF AND LATER THE AFRC/RUF**

51. As is discussed in greater detail below, from the beginning until the conclusion of the conflict in Sierra Leone, Taylor played a critical, authoritative role *vis a vis* the RUF, and later the AFRC/RUF. Soon after Foday Sankoh arrived in Libya, he made it clear that he wanted to be recognized as leader of the group of Sierra Leoneans who were there; that he wanted to begin the "struggle" in Sierra Leone. [REDACTED]

[REDACTED]<sup>176</sup> Prior to the invasion of Liberia, Charles Taylor and Foday Sankoh formed common cause.<sup>177</sup>

<sup>173</sup> See Section II.H.

<sup>174</sup> See Section II.G & I.

<sup>175</sup> See Section II.A, B, Section III.B & C, Section V, VI.

<sup>176</sup> [REDACTED]

<sup>177</sup> TFI-548, TT, 8 February 2008, pp. 3446-47 [REDACTED]

See also Exh. D-114 B, para. 17.

52. Another group was present in Libya during the time Taylor's NPFL and Sankoh's group were training there, a Gambian dissident group led by Dr. Manneh aka Kukoi Samba Sanyang.<sup>178</sup> Before the invasion of Liberia, Taylor and Sankoh had also formed common cause with Dr. Manneh.<sup>179</sup> At a meeting in Ouagadougou, Burkina Faso prior to Taylor's initial attack on Liberia, Sankoh and Dr. Manneh agreed to assist Taylor in waging war in Liberia, and Taylor agreed to assist Dr. Manneh and Sankoh in return.<sup>180</sup> Thereafter, Sankoh and others from his group as well as Dr. Manneh and members of his group, fought for or assisted Taylor in Liberia. [REDACTED]

[REDACTED]<sup>181</sup> [REDACTED]  
[REDACTED]<sup>182</sup> Foday Sankoh described the Accused as his brother, and stated that the two of them were taking the war to Freetown. [REDACTED]

[REDACTED]<sup>183</sup> For his part, the Accused participated, was involved, acted in concert with Sankoh and subsequent leaders throughout the conflict in Sierra Leone.

53. [REDACTED]<sup>184</sup>  
Contradicting his testimony to the Court, in a BBC interview conducted around December 1998, the Accused admitted that he had been friends with Foday Sankoh for many years before the "revolution," which is how the Accused consistently referred to his attack on Liberia.<sup>185</sup>

<sup>178</sup> [REDACTED]; TF1-548, TT, 7 February 2008, pp. 3428-32: the witness stated that, at Mahtaba, Kukoi Samba Sanyang introduced him to the Accused for the first time and he also met Foday Sankoh there. The witness stated he met both the Accused and Sankoh there in the beginning of 1990. Kukoi told the witness the Accused was the leader of the Liberian group training in Libya and that Sankoh was the acting leader of the Sierra Leonean group training there. The witness then stated Charles Taylor left Libya to Burkina as did Foday Sankoh; [REDACTED]; Exh. D-114B, para. 17; Exh. P-31, p. 7; Stephen Ellis, TT, 18 January 2008, p. 1531: The witness recalled a UN expert panel report establishing that the Accused was a friend of Foday Sankoh in 1989 in Libya, and he was also informed by an RUF leader that the Accused met Sankoh in Libya. The witness stated, "I would say there's overwhelming evidence that Mr. Taylor was in Libya at least occasionally during that period and it's pretty clear that he met Foday Sankoh during that period."

<sup>179</sup> TF1-548, TT, 12 February 2008, pp. 3666-67; [REDACTED]

<sup>180</sup> TF1-548, TT, 7 February 2008, pp. 3416-19 and 8 February 2008, pp. 3446-47 and 13 February 2008, p. 3735.

<sup>181</sup> [REDACTED]

<sup>182</sup> [REDACTED]

<sup>183</sup> [REDACTED]

<sup>184</sup> [REDACTED]

<sup>185</sup> Exh. P-416 A&B; Accused, TT, 14 July 2009, pp. 24325-26 and 15 July 2009, pp. 24528-29 and 20 July 2009, pp. 24759-61, 24794 and 18 November 2009, pp. 32076-79 and 11 January 2010, pp. 33152-61: the Accused accepts the interview was in about December 1998 and says his attack was a revolution, but did not characterize the attack on Sierra Leone as such.



Taylor was the “Chief”

54. Taylor may have made common cause with Sankoh, but from the beginning and throughout his association with the RUF and later the AFRC/RUF, Taylor was the ultimate authority, the overall leader, the one who truly created and sustained his proxy forces, the RUF and later AFRC/RUF. These proxy forces rightly referred to Taylor as “Chief” or “Commander in Chief,”<sup>186</sup> “Father” or “Papay”/“Pa,”<sup>187</sup> and “Godfather,” accurately reflecting his central role in the life of the RUF and later the AFRC/RUF and his overall control of these, his surrogate forces in Sierra Leone. For example, in Libya, Sankoh called Taylor “Chief,” as did the others there,<sup>188</sup> and Taylor, the only boss of the NPFL, was the only one making decisions for the Liberian, Gambian and Sierra Leonean groups of fighters.<sup>189</sup> Taylor remained “chief” to Sankoh, even at the time of the Lomé Peace Agreement. Taylor told this Court how, after the talks with Sankoh and Koroma in Monrovia following Lomé, he, Taylor, “sent” Sankoh back to Sierra Leone.<sup>190</sup>
55. Taylor’s relationship with the RUF was clear: “...he [Taylor] had command over the RUF and we took it that the RUF belonged to him, although he sent somebody to head the RUF but he was the owner of the RUF... So the RUF was in the hands of Mr Taylor.”<sup>191</sup> AFRC/RUF leaders from Foday Sankoh to Issa Sesay and Johnny Paul Koroma, all regarded Charles Taylor as their “boss,” “senior brother” or “chief.” It was common for the senior officers of the RUF to refer to Charles Taylor as the Chief.<sup>192</sup> Bockarie’s ascension to the position of on-the-ground commander of the RUF and then as commander of the AFRC/RUF alliance made Taylor’s control even more clear. Toward the end of 1996, Sankoh made it clear that in his absence, Bockarie should take orders from Taylor. Sankoh informed the RUF that they should all take instructions from Bockarie, and that Bockarie should take instructions from Mr. Ghankay. Immediately after his arrest in March 1998, Sankoh reiterated to Bockarie that in his

<sup>186</sup> See for example TF1-274, TT, 3 December 2008, p. 21543; 11 December 2008, p. 22258; Exh. P-65, p. 00029778.

<sup>187</sup> See for example TF1-274, TT, 3 December 2008, p. 21543; TF1-367, TT, 21 August 2008, p. 14300.

<sup>188</sup> TF1-561, TT, 14 May 2008, pp. 9806, 9810, 9815-16.

<sup>189</sup> TF1-561, TT, 14 May 2008, pp. 9804, 9806, 9810, 9814-15.

<sup>190</sup> Accused, TT, 12 August 2009, p. 26665; [REDACTED].

<sup>191</sup> TF1-532, TT, 31 March 2008, p. 6229.

<sup>192</sup> TF1-516, TT, 8 April 2008, p. 6883; see also TF1-367, TT, 21 August 2008, p. 14300.

absence, Bockarie should take instructions from Charles Taylor.<sup>193</sup> Bockarie indicated he would obey that order<sup>194</sup> and did follow that instruction before, during and after the Junta took power in Sierra Leone in May 1997.

56. But even without this order, Taylor would have been in charge of the RUF once Sankoh was in detention. Sankoh's arrest had created a "vacuum in the leadership of the RUF;"<sup>195</sup> Taylor and Yeaten would have considered – as they did with Bockarie<sup>196</sup> – any new RUF leader as a "little boy."<sup>197</sup> After the Intervention, it was Taylor who, individually or in concert with Johnny Paul Koroma, selected Bockarie to head the alliance after the Intervention and promoted Bockarie to general.<sup>198</sup> After the attack on Freetown had been repelled, with the nature and extent of the horrific crimes known to the international community, it was Taylor who again rewarded Bockarie, promoting him to two-star general.<sup>199</sup>
57. Taylor's position as chief was accepted by other leaders in the AFRC/RUF alliance as well. Bockarie, Sankoh and Johnny Paul Koroma came to Liberia after the Junta period in order for the "chief," Taylor, to settle a dispute between them.<sup>200</sup> Koroma was not satisfied with Taylor's decision but nonetheless accepted it,<sup>201</sup> evidencing Taylor's power to make decisions binding on these leaders. This reality remained unchanged during Issa Sesay's reign. For example, in 2000, Sesay came to Kolahun, Lofa County, and called a muster parade of his subordinates assigned there to assist Taylor. At this muster parade, Sesay informed those present that he had been promoted to three-star general by his chief, Taylor.<sup>202</sup> In the letter Sankoh sent after his arrest in 2000 confirming Issa Sesay as the Interim Leader of the RUF, Sankoh directed that just as Sam Bockarie had taken instructions from Charles Taylor whilst Foday Sankoh was

<sup>193</sup> TF1-338, TT, 1 September 2008, pp. 15114-16; TF1-045, TT, 12 November 2008, pp. 20126-28. See also TF1-571, TT, 8 May 2008, p. 9358.

<sup>194</sup> TF1-045, TT, 12 November 2008, pp. 20126-28.

<sup>195</sup> [REDACTED]; Accused, TT, 18 August 2009, p. 27044.

<sup>196</sup> Accused, TT, 16 September 2009, p. 29081.

<sup>197</sup> TF1-375, TT, 24 June 2008, p. 12692.

<sup>198</sup> See Section II.B.

<sup>199</sup> [REDACTED]; Exh. P-572 (Photo of Sam Bockarie wearing a beret with 2 stars).

<sup>200</sup> TF1-561, TT, 15 May 2008, pp. 9953-55; see also para. 202.

<sup>201</sup> TF1-561, TT, 15 May 2008, pp. 9953-55; see also para. 202.

<sup>202</sup> TF1-516, TT, 8 April 2008, pp. 6883-85.

previously detained, in the same way Issa Sesay would take instructions from Charles Taylor.<sup>203</sup> As discussed in Sections II.B, III.B & C below, Sesay complied.

Taylor was the “father,” “Papay” or “Pa,” and “godfather”

58. Taylor was also referred to as the “father” of the RUF and as the “Godfather.”<sup>204</sup> The leader of the Junta understood that Taylor played that role and the significance of that role to all the Junta, not just the RUF. Samuel Kargbo, a close personal aide to Junta leader Johnny Paul Koroma, told the Court that inside Sierra Leone, “Charles Taylor was the godfather for RUF, so whatever the situation was we needed to call him to let him know that that was what was going on.”<sup>205</sup> Indeed, the RUF was invited to join in part because of the contacts the RUF had through Charles Taylor, “who was their godfather.”<sup>206</sup> Within one to two weeks of the coup, Johnny Paul Koroma placed a call to Charles Taylor in the presence of the witness asking for recognition, and told the Supreme Council members who were present afterwards that he had spoken to Taylor and that Taylor had told him to work with his RUF brothers and to contact Taylor if there were any problems.<sup>207</sup>
59. Bockarie considered Taylor the father of the RUF as well, referring to him as father and Papay.<sup>208</sup> At the time of the savage attack on Freetown in January 1999, Bockarie publicly noted on the BBC Taylor’s position as “father” of the alliance, with the superior authority a father has. Bockarie told the BBC that he would not retreat unless his “Father” told him to do so. When asked what “Father” he was referring to, Bockarie replied, “Charles Taylor.” This public admission of the superior/subordinate relationship between Taylor and Bockarie annoyed Taylor’s subordinates who heard it.<sup>209</sup> Issa Sesay considered Taylor the “big revolutionary father.”<sup>210</sup>

<sup>203</sup> TF1-338, TT, 2 September 2008, pp. 15151-56.

<sup>204</sup> See for example [REDACTED]; TF1-406, TT, 10 January 2008, pp. 925-26; TF1-367, TT, 21 August 2008, p. 14300; TF1-360, TT, 7 February 2008, p. 3317.

<sup>205</sup> TF1-597, TT, 21 May 2008, p. 10452.

<sup>206</sup> TF1-597, TT, 22 May 2008, pp. 10512-13.

<sup>207</sup> TF1-597, TT, 21 May 2008, pp. 10444-46.

<sup>208</sup> TF1-406, TT, 10 January 2008, pp. 925-26; TF1-577, TT, 5 June 2008, pp. 11072, 11075-76, 11083; TF1-532, TT, 31 March 2008, pp. 6226-27; [REDACTED]

[REDACTED]; TF1-274, TT, 2 December 2008, pp. 21433-36, 21512, 21516, 21530 and 3 December 2008, p. 21543; TF1-338, TT, 1 September 2008, pp. 15115-16; TF1-388, TT, 9 July 2008, p. 13357 and 10 July 2008, pp. 13391, 13418; TF1-567, TT, 2 July 2008, p. 12898, 12906-07; TF1-568, TT, 15 September 2008, p. 16175 and 16 September 2008, p. 16328; TF1-532, TT, 11 March 2008, p. 5720 and 7 April 2008, p. 6727; TF1-584, TT, 19 June 2008, p. 12314; TF1-571, TT, 9 May 2008, p. 9432 and 8 May 2008, p. 9395; TF1-045, TT, 12 November 2008, p. 20119. See also Exh. D-8, p. 6.

<sup>209</sup> TF1-406, TT, 9 January 2008, p. 866.

60. Taylor was the father of the RUF in the sense that he created it as a viable organized armed force, nurtured and sustained it as it matured, ensured its continued survival, taught it how to carry out its role and how to treat civilians, directed it in its first endeavours, protected it from outside threats to its existence, and strengthened the basic unity of the group. Taylor performed the same fatherly functions in regard to the later AFRC/RUF alliance. In return, Taylor expected and received benefits from his creations, as discussed at Section III below, including the right and authority to summon and discipline them, and executing those he felt were a threat to his continued role as father.

One family under Taylor's leadership and guidance

61. From the beginning, the RUF and NPFL were one family, brothers and sisters.<sup>211</sup> The NPFL and RUF were "*carbon copies*"<sup>212</sup> modelled by Taylor. At Bomi Hills in November 1991, Charles Taylor and Foday Sankoh addressed NPFL and RUF fighters; Taylor told them they were all fighting for the same freedoms, and Sankoh told them that Taylor would help him continue the war and would provide arms and ammunition.<sup>213</sup>
62. Taylor's NPFL, also moulded by Taylor, was clearly the older brother to the RUF. As will be discussed in more detail below, members of Taylor's NPFL helped train the RUF in Liberia and Sierra Leone, instilling in the trainees the use of terror as a tool in their treatment of civilians in Sierra Leone. Some of the trainers and most of those trained became the future leaders of the RUF, AFRC/RUF. In addition, RUF commanders learned from the NPFL, even if some RUF commanders occasionally complained that NPFL fighters were excessively harassing and killing civilians. For example, Sam Bockarie and Issa Sesay mimicked NPFL commanders by considering the troops trained in Libya, i.e., Special Forces, and those trained under Taylor's auspices in Liberia, i.e., Vanguard, at the top of the RUF military hierarchy.<sup>214</sup>

<sup>210</sup> TF1-567, TT, 7 July 2008, pp. 13039-40.

<sup>211</sup> TF1-367, TT, 1 September 2008, pp. 15072-73.

<sup>212</sup> [REDACTED]; TF1-577, TT, 4 June 2008, p. 10937.

<sup>213</sup> TF1-337, TT, 4 March 2008, p. 5252. See also Exh. P-31, p. 00026610.

<sup>214</sup> [REDACTED]; TF1-532, TT, 7 April 2008, pp. 6784-85; TF1-399, TT, 12 March 2008, pp. 5900-01; [REDACTED]

63. Taylor used his family of fighters interchangeably in Liberia and elsewhere, as will be discussed in more detail below. For example, the Accused quite rightly agreed that the picture presented at the time ULIMO was fighting against the NPFL and RUF was, on one side, the NPFL fighting alongside or in cooperation with the RUF, and on the other side, ULIMO fighting in cooperation with Sierra Leone government forces.<sup>215</sup> The agreed picture accurately reflected the reality on the ground. The RUF and NPFL fought together not only in Sierra Leone but also in Liberia. Taylor used RUF fighters who had been pushed out of Sierra Leone to fight alongside his NPFL in Liberia under the command of his NPFL commanders. When the mixed force of NPFL and RUF were able to re-enter Sierra Leone, many RUF stayed behind in Liberia with Taylor's NPFL fighters. Taylor even brought RUF fighters from Sierra Leone to reinforce his NPFL in Liberia under his NPFL commanders. Taylor provided these forces with the materiel they needed to fight against his enemies.<sup>216</sup> Later, the Accused also used his proxy forces, the AFRC/RUF to fight against his foes in Liberia, Guinea and Ivory Coast.
64. Taylor was usually the one providing materiel to his RUF creation, but he also expected the RUF to provide him with materiel as needed. For example, in 1992 some time after the NPRC took power, Taylor sent a communication to Sankoh "requesting" that Sankoh send all captured artillery pieces to Gbarnga.<sup>217</sup> As with all such "requests," Sankoh immediately complied. Sankoh left for Gbarnga and the seized weapons were provided to Taylor.<sup>218</sup>

#### Taylor created a viable RUF

65. Taylor created a viable RUF by providing a secure training environment, members, trainers, and provisions during the training. [REDACTED]
- [REDACTED]
- [REDACTED]

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[REDACTED]; TF1-274, TT, 1 December 2008, pp. 21317-18; TF1-275, TT, 20 February 2008, 4373-74; TF1-516, TT, 8 April 2008, p. 6827; TF1-584, TT, 17 June 2008, p. 12056; TF1-388, TT, 9 July 2008, p. 13244; DCT-172, TT, 5 July 2010, pp. 43642-45.

<sup>215</sup> Accused, TT, 22 September 2009, pp. 29287, 29299.

<sup>216</sup> TF1-045, TT, 12 November 2008, pp. 20078-85; TF1-274, TT, 1 December 2008, pp. 21317-18; TF1-337, TT, 10 March 2008, pp. 5627-28, 5677-78.

<sup>217</sup> TF1-275, TT, 20 February 2008, pp. 4393-95.

<sup>218</sup> TF1-275, TT, 20 February 2008, pp. 4393-95.

[REDACTED]  
[REDACTED]<sup>219</sup>

Taylor provided a secure training environment in Liberia

66. The Accused provided Foday Sankoh and his RUF with a training base at Camp Naama. By June, July 1990, the NPFL captured Gbarnga;<sup>220</sup> according to the Accused, by August or September, nearby Camp Naama was in the hands of the NPFL as well. Taylor immediately opened a training base there.<sup>221</sup> Camp Naama was used as a training base for both the NPFL and the RUF.<sup>222</sup> The NPFL were stationed on one side of the camp whilst the RUF were stationed on the other.<sup>223</sup> Those going to the RUF training area passed through NPFL checkpoint(s) with no difficulty.<sup>224</sup>
67. However, even at this early stage, Taylor was taking precautions to limit knowledge of his association with the forces that were being trained to attack Sierra Leone. Trainees at Camp Naama were told not to use the name Naama, but to use the name Sokoto for the base at which they were trained. [REDACTED]

[REDACTED]<sup>225</sup>

Taylor provided fighters

68. Taylor allowed members of his own NPFL to join the RUF such as Isaac Mongor, Mike Lamin, John Kargbo and John Vincent.<sup>226</sup> [REDACTED]  
[REDACTED]<sup>227</sup> and made possible the conscription/recruitment of other personnel resident in

<sup>219</sup> [REDACTED]

<sup>220</sup> Accused, TT, 16 July 2009, p. 24666; see also TF1-532, TT, 1 April 2008, pp. 6286-87; DCT-025, TT, 17 March 2010, pp. 37401-02: The witness joined Sankoh at Camp Naama in 1990. At that time, the NPFL was in control of Gbarnga; see also Exh. D-123E, photograph date stamped 13 March 1991 showing, according to Taylor, himself receiving an ECOMOG officer in Gbarnga, nothing in the photo indicates a room in the midst of renovation work.

<sup>221</sup> Accused, TT, 20 July 2009, pp. 24756-57.

<sup>222</sup> TF1-532, TT, 10 March 2008, p. 5663; [REDACTED]; [REDACTED]; [REDACTED]; TF1-367, TT, 20 August 2008, p. 14094; see also Exh. D-114, para. 57: Camp Naama was a walkable distance from Gbarnga.

<sup>223</sup> [REDACTED]; TF1-367, TT, 20 August 2008, p. 14094.

<sup>224</sup> DCT-299, TT, 23 June 2010, pp. 43255-57; DCT-172, 16 August 2010, pp. 46410-11: Sankoh came in and out of Naama and had to pass through the NPFL checkpoint, with his AK-47 in the vehicle.

<sup>225</sup> [REDACTED]  
<sup>226</sup> [REDACTED]; DCT-299, TTs, 16 June 2010, pp. 42677-79, 17 June 2010, pp. 42747, 42750: NPFL Kargbo and Mongor; TF1-532, TT, 1 April 2008, pp. 6300-01; [REDACTED]

[REDACTED]; DCT-215, TT, 24 March 2010, p. 37962.

<sup>227</sup> [REDACTED]  
[REDACTED]

his controlled territories, which by August 1990 was 90% of Liberia, with only Monrovia outside NPFL control.<sup>228</sup>

69. The Accused provided the RUF with civilians detained by his subordinates in Liberia pursuant to his direction. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>229</sup> The Accused ordered that persons residing in Liberia and bearing the nationalities of those countries participating in ECOMOG, namely Sierra Leoneans, Guineans and Nigerians, should be arrested.<sup>230</sup> [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>231</sup> [REDACTED]  
<sup>232</sup> Sankoh was able to travel throughout Taylor-controlled territory, get Sierra Leoneans released from NPFL detention and take them for training pursuant to a directive from Taylor.<sup>233</sup> Taylor even permitted these detainees to be released to Isatu Kallon.<sup>234</sup> Many trainees were brought from NPFL detention facilities in Kakata and Buchanan, and from the "Katta Hight"<sup>235</sup> prison, near Kakata.

<sup>228</sup> Accused, TT, 16 July 2009, p. 24687; TT, 16 July 2009, p. 24659, 24662, 24663, 24690 and 20 July 2009, p. 24757; by May 1990, the NPFL had control over Nimba, Bong, Margibi Counties and had captured Buchanan; TT, 16 July 2009, p. 24661-62, 24663; by late May, early June 1990 the NPFL had captured Kakata, putting Harbel in the NPFL control area; TT, 16 July 2009, pp. 24666-67, 24690, 2467.

<sup>229</sup> [REDACTED]  
<sup>230</sup> TF1-367, TT, 20 August 2008, pp. 14088-89; TF1-532, TT, 10 March 2008, pp. 5661-63; [REDACTED]

<sup>231</sup> [REDACTED]  
<sup>232</sup> [REDACTED]  
<sup>233</sup> [REDACTED]  
<sup>234</sup> [REDACTED]

[REDACTED]; TF1-367, TT, 20 August 2008, pp. 14091-14094: The witness testified that he was told of Katta Height by Foday Sankoh's main bodyguard at that time, named Jarffer Massaquoi, who like the witness was of the Mende tribe, DCT-299, TT, 16 June 2010, pp. 42656-63.

<sup>234</sup> DCT-299, TT, 16 June 2010, pp. 42655-56, 42659-62.

<sup>235</sup> TF1-367, TT, 20 August 2008, pp. 14090-94: re "Katta Hight"; Accused, TT, 10 September 2009, p. 28578: the Accused admitted there is a prison called "Carter High."

70. Taylor also allowed Sankoh to take detainees being held in Harbel, Liberia. Sierra Leoneans, Nigerians and Ghanaians were arrested and detained in Harbel, Lower Margibi County. Guards at the prison said they were being held because of their nationality. During their detention, NPFL personnel took several men out and killed them, with no resistance from the NPFL guards. Sankoh visited the prison and explained that their detention was the consequence of the leaders in Sierra Leone intervening and preventing the NPFL from taking power in Monrovia and contributing troops to ECOMOG. Afraid for their lives if they remained in detention, when Sankoh returned the following day with a bus, they agreed to go with him and were transported to Camp Naama. They were able to pass freely through NPFL checkpoints along the way, at Harbel, through 15 Gate, Kakata, Gbarnga, and on to Camp Naama. [REDACTED]

236

Taylor provided training and trainers

71. Prior to the commencement of the armed conflict in Sierra Leone and during the conflict, the Accused provided military training to the RUF and the AFRC/RUF alliance, both in Liberia and Sierra Leone. This training provided ongoing benefit to these groups, assisting the ability of these groups to carry out their activities in Sierra Leone throughout the conflict, including the commission of the charged crimes. Men, women, and children under the age of 15 years were trained at Camp Naama. All recruits received the same training.<sup>237</sup> In the same way NPFL operated, RUF training in Liberia included training of SBUs<sup>238</sup> and WACs.<sup>239</sup> The recruits at Camp Naama

<sup>236</sup> [REDACTED]; see also TF1-532, TT, 1 April 2008, pp. 6286-87; [REDACTED]

<sup>237</sup> [REDACTED]; TF1-532, TT, 10 March 2008, p. 5664; at Camp Naama in 1990, the ages of those trained were the same as those in the NPFL and included SBUs; & TT, 31 March 2008, pp. 6204-06; DCT-299, TT, 24 June 2010, pp. 43307, 43316-17: one of the people Sankoh took from Harbel to Sokoto was around 11 or 12 years old. Michael Stewart, a boy who was about eight years old, was being trained at Camp Naama and another young boy, Raka, was staying with the witness and became an RUF fighter; DCT-062, TT, 21 April 2010 at p. 39602 and 22 April 2010, p. 39628; in 1991 Jonathan Parker aka Base Marine, aged nine or ten, was brought to "Crab Hole" which was part of Camp Naama.

<sup>238</sup> [REDACTED]; TF1-532, TT, 10 March 2008, p. 5664; [REDACTED]; DCT-299, TT, 24 June 2010, pp. 43307, 43316-17; DCT-062, TT, 22 April 2010, p. 39628; TF1-567, TT, 2 July 2008, p. 12825.

<sup>239</sup> [REDACTED]; TF1-532, TT, 10 March 2008, p. 5664.



received physical training, military training and training in ideology.<sup>240</sup> [REDACTED]

[REDACTED]<sup>241</sup> [REDACTED]

[REDACTED]<sup>242</sup> [REDACTED]

[REDACTED]<sup>243</sup>

72. The Accused provided members or ex-members of the NPFL to act as instructors at Camp Naama, including Mike Lamin, a Sierra Leonean, and Liberians such as Gonkanu, Red Devil, Draper/ Driipo and Isaac Mongor.<sup>244</sup> There were also Sierra Leonean instructors, including Sierra Leonean members of the "Special Forces" who trained with Charles Taylor's men in Libya and fought with Taylor's forces in Liberia, including CO Rashid Mansaray and CO Mohamed Tarawalli aka Zeno.<sup>245</sup>
73. NPFL instructors trained up to 300 RUF recruits at Camp Naama including those who were to become senior members of the RUF such as Sam Bockarie aka Mosquito or

<sup>240</sup> TF1-532, TT, 10 March 2008, p. 5666; TF1-367, TT, 20 August 2008, p. 14096: stating that Mike Lamin gave ideology training: [REDACTED]

[REDACTED]<sup>241</sup>

[REDACTED]<sup>242</sup>

[REDACTED]<sup>243</sup>

<sup>244</sup> TF1-367, TT, 20 August 2008, pp. 14095-06; [REDACTED]

[REDACTED]; TF1-532, TT, 10 March 2008, pp. 5646-47, 5663-65 and 31 March 2008, pp. 6234-35; DCT-299, TT, 16 June 2010, pp. 42677-78, 42703-06 and 17 June 2010, pp. 42747, 42750-51, 42754: Isaac Mongor was NPFL deputy commander to NPFL commander John Kargbo and Mongor said he had been at Sokoto helping train there, witness later saw Mongor in Kailahun District after the invasion and he was now in the RUF, he later held a command position in Sierra Leone, was given to Foday Sankoh by Charles Taylor not just to go to Sierra Leone to fight but also to train at Camp Naama. See also TF1-571, TT, 13 May 2008, p. 9666; TF1-334, TT, 17 April 2008, p. 7969; DCT-292, TT, 1 June 2010, pp. 41710-11, 41721 and 2 June 2010, pp. 41867-69: NPFL Gonkanu was an experienced fighter.

<sup>245</sup> TF1-367, TT, 20 August 2008, p. 14097; [REDACTED]

Maskita, Issa Sesay, Morris Kallon, Philip Palmer, Augustine Gbao, Mike Lamin, Patrick Lamin and Peter Vandi.<sup>246</sup>

Taylor's training included that fighters were to use terror tactics against civilians

74. Taylor promised that Sierra Leone would taste "*the bitterness of war*,"<sup>247</sup> a promise that Defence witness Issa Sesay heard.<sup>248</sup> The training he provided ensured that would indeed be the case. The horrific campaign of terror that would inflict untold suffering and misery throughout the conflict in Sierra Leone was not only foreshadowed by Taylor's crimes against civilians in Liberia, but also by the training provided at Camp Naama. [REDACTED]

[REDACTED]

[REDACTED]<sup>249</sup> Those who were in the highest leadership positions – Taylor's NPFL who remained such as Isaac Mongor and Vanguarders such as Sam Bockarie and Issa Sesay - all were exposed to this method of dealing with civilians, which they implemented in Sierra Leone throughout the conflict. The conduct of Taylor's NPFL in Sierra Leone reinforced this training and the reign of terror that the NPFL introduced was mimicked by Taylor's surrogate forces, the RUF, and later AFRC/RUF, throughout the conflict.<sup>250</sup>

Taylor provided the supplies needed for the training

75. Taylor provided the supplies needed for the training and a truck to facilitate the transport of the detained Sierra Leoneans who had been handed over to Sankoh to Camp Naama. Sankoh did not have the financial capability to maintain the recruits at Camp Naama, so Sankoh went to Taylor's NPFL to get supplies for the training camp.

<sup>246</sup> [REDACTED]; DCT-025, TT, 17 March 2010, p. 37411; TF1-275, TT, 20 February 2008, p. 4374; [REDACTED]; TF1-532, TT, 10 March 2008, pp. 5666-67; TF1-367, TT, 20 August 2008, p. 14096.

<sup>247</sup> TF1-275, TT, 20 February 2008, pp. 4333-34; TF1-532, TT, 10 March 2008, pp. 5661-62 and 1 April 2008, pp. 6311-12; TF1-210, TT, 30 October 2008, p. 19629; TF1-334, TT, 16 April 2008, p. 7851; TF1-577, 3 June 2008, p. 10867; Stephen Ellis, TT, 16 January 2008, p. 1463 and 18 January 2008, p. 1553; TF1-114, TT, 16 January 2008, p. 1379; TF1-015, TT, 8 January 2008, p. 738; TF1-233, TT, 1 October 2008, p. 17733. See also Exh. P-31, p. 00026610.

<sup>248</sup> DCT-172, TT, 17 August 2010, p. 46453.

<sup>249</sup> [REDACTED]  
<sup>250</sup> [REDACTED]; TF1-532, TT, 11 March 2008, p. 5754; [REDACTED]; TF1-275, TT, 20 February 2008, pp. 4373-74; TF1-516, TT, 8 April 2008, p. 6827; TF1-584, TT, 17 June 2008, pp. 12056-57; TF1-388, TT, 9 July 2008, pp. 13244-45. See also Exh. P-295; Exh. P-296.

[REDACTED]<sup>251</sup> Sankoh told the recruits at Camp Naama that “the food we ate, whatever we used at the base, was coming from Charles Taylor.”<sup>252</sup>

Taylor ensured the success of the initial invasion of Sierra Leone and subsequent operations

76. Taylor’s role as chief, father, godfather to his surrogate force, the RUF, continued through the initial invasion of Sierra Leone and the subsequent operations there. The diversity of his participation, involvement, concerted action with and command over the RUF manifested itself throughout the conflict, later including the AFRC/RUF.

Taylor devised the plan for the initial attack on Sierra Leone

77. Taylor devised the plan for the initial attack before this attack was launched on Sierra Leone in March 1991. The Accused, Foday Sankoh, some of the Accused’s subordinate NPFL commanders, including those who would enter Sierra Leone as part of the invading force, and some RUF personnel held a meeting in Voinjama, Lofa County. At that meeting, the plan for the attack was decided. The Accused was in charge of that meeting, and was the more domineering at the meeting. [REDACTED]

[REDACTED]<sup>253</sup> it was Taylor’s plan that prevailed—an attack on two Districts: Pujehun and Kailahun.<sup>254</sup> [REDACTED]

[REDACTED]

[REDACTED]<sup>255</sup> This was the plan that was carried out in March 1991.

Taylor’s NPFL led the initial attack and subsequent operations

78. The Accused’s NPFL commanders and fighters were the primary participants of the initial invasion into Sierra Leone in March 1991 and during the early stages of the conflict in Sierra Leone until being withdrawn in about June 1992. The significant

<sup>251</sup> [REDACTED]; [REDACTED]; TF1-367, TT, 20 August 2008, pp. 14098-99; TF1-532, TT, 10 March 2008, pp. 5661-63, 5666-68; TF1-567, TT, 2 July 2008, pp. 12838-45, 12858; Accused, TT, 10 September 2009, pp. 28590-93; Accused, TT, 10 September 2009, pp. 28591-92.

<sup>252</sup> TF1-367, TT, 20 August 2008, pp. 14098-99.

<sup>253</sup> [REDACTED]

<sup>254</sup> [REDACTED]; TF1-532, TT, 10 March 2008, pp. 5668-73; TF1-399, TT, 12 March 2008, pp. 5865-66.

<sup>255</sup> [REDACTED]

majority of fighters who invaded Sierra Leone in March 1991 were Liberian NPFL.<sup>256</sup> A wealth of evidence to this effect has been presented during trial, including documentary evidence and testimony of Prosecution expert witness Stephen Ellis and numerous Prosecution witnesses, some of whom were members of the NPFL and gave evidence to the effect that they were sent by the Accused to participate in the initial invasion of Sierra Leone.<sup>257</sup>

79. Largely NPFL forces, with some RUF senior fighters among them, attacked Pujehun and Kailahun in March 1991, and the NPFL were in command of the fighters and operations.<sup>258</sup> [REDACTED]  
[REDACTED]<sup>259</sup> NPFL commanders who played leading roles in the initial invasion and subsequent operations in Sierra Leone included: Sam Tuah,<sup>260</sup> Oliver Varney,<sup>261</sup> Charles Timber,<sup>262</sup> Sam Larto,<sup>263</sup> Francis Mewon,<sup>264</sup> Dopoe Menkarzon,<sup>265</sup> Anthony

<sup>256</sup> [REDACTED]; TF1-367, TT, 20 August 2008, pp. 14099-100: It was members of the NPFL, rather than members of the RUF whom launched the initial attacks into Sierra Leone.

<sup>257</sup> Exh. P-31, pp. 7, 8, 14: Ellis noted that The Sierra Leonean Truth and Reconciliation Commission's (TRC) report described the NPFL as 'primary perpetrators' in the first place for the Sierra Leonean civil war from 1991 to 1994...and that the TRC estimated that as many as 1,600 NPFL fighters were involved in the early phase of the Sierra Leonean war, as much as 80% of insurgent forces. See also for example [REDACTED]; [REDACTED]; TF1-532, TT, 10 March 2008, pp. 5672-73; TF1-399, TT, 12 March 2008, pp. 5865-67; [REDACTED]; Exh. D-62, p. 1: A report dated 23 March 1991 explains that about 100 fighters including "Liberian fighters loyal to Charles Taylor" invaded eastern Sierra Leone at Bomaru, Kailahun District and that "a second flank was opened in Pujehun District by a group entering from the Mano River Bridge linking Liberia with Sierra Leone" and noting that "The RUF was unknown to most Sierra Leoneans at the time; most believed it to be a front organization for Charles Taylor's National Patriotic Front of Liberia."

<sup>258</sup> [REDACTED]; [REDACTED]; TF1-045, TT, 12 November 2008, pp. 20075-77; TF1-337, TT, 4 March 2008, p. 5258; DCT-292, TT, 1 June 2010, pp. 41732, 41735; TF1-532, TT, 10 March 2008, pp. 5674-76: Isaac Mongor was commander of area near Koindu and captured arms; TF1-275, TT, 20 February 2008, pp. 4366-67. See also [REDACTED]; DCT-146, TT, 1 April 2010, pp. 38602, 38604.

<sup>259</sup> [REDACTED]; [REDACTED]. See also Exh. P-54 & Exh. P-55.

<sup>260</sup> [REDACTED]; TF1-567, TT, 2 July 2008, p. 12829; TF1-275, TT, 20 February 2008, pp. 4341, 4343; Exh. P-54, p. 00100162; TF1-338, TT, 1 September 2008, p. 15109; Accused, TT, 15 September 2009, p. 28936 and 16 September 2009, p. 29061: acknowledging that Sam Tuah was fighting in Sierra Leone; DCT-215, TT, 25 March 2010, p. 38021; DCT-292, TT, 2 June 2010, p. 41870.

<sup>261</sup> [REDACTED]; Exh. P-54, p. 00100162; TF1-338, TT, 1 September 2008, p. 15107; Accused, TT, 15 September 2009, p. 28936; DCT-228, TT, 19 May 2010, p. 41184.

<sup>262</sup> [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12820, 12825; Exh. P-54, p. 00100162; TF1-338, TT, 1 September 2008, p. 15107; Accused, TT, 16 September 2009, p. 29061: stating "Charles Timba was one of the commanders that were with our special operations people in Sierra Leone"; DCT-215, TT, 25 March 2010, p. 38021; DCT-292, TT, 2 June 2010, p. 41870.

<sup>263</sup> [REDACTED]; Exh. P-54, p. 00100162.

Mekunagbe aka Dry Pepper,<sup>266</sup> General Degbon,<sup>267</sup> One Man One,<sup>268</sup> CO Dugba,<sup>269</sup> Pele Boy,<sup>270</sup> Jah Glory,<sup>271</sup> and Liberian Mosquito aka Christopher Varmoh.<sup>272</sup> The NPFL commanders were in complete control over the invasion and initial fighting in Sierra Leone.<sup>273</sup>

80.

[REDACTED]<sup>274</sup>  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>275</sup> The morning after a meeting with Taylor in Voinjama in which Taylor made the final decision as to how the attack would unfold, Isaac Mongor and his men were sent to Foya where they were armed. From Foya, Mongor and his men moved to Mendekoma, along the border of Liberia and Sierra Leone, where they organized themselves before launching an attack on Koindu.<sup>276</sup>

<sup>264</sup> [REDACTED]; TF1-567, TT, 2 July 2008, p. 12826; TF1-275, TT, 20 February 2008, p. 4372 who spoke about him as one of the NPFL commanders, together with, Anthony Menquenagbeh and Dopoe Merkazon, who were "fully in control of supplies and monitoring and dispatching of everything that went on in Sierra Leone" until mid-1992; [REDACTED]; Exh. P-54, p. 00100162; TF1-338, TT, 1 September 2008, p. 15107; DCT-292, TT, 2 June 2010, p. 41875.

<sup>265</sup> TF1-567, TT, 2 July 2008, pp. 12826-27; TF1-275, TT, 20 February 2008, p. 4372; [REDACTED]; TF1-561, TT, 14 May 2008, pp. 9860-61, 9865-66: witness stated Menkarzon and other NPFL sent to Sierra Leone were never investigated or punished for what they did there; TF1-338, TT, 1 September 2008, p. 15107; DCT-292, TT, 2 June 2010, p. 41870.

<sup>266</sup> [REDACTED]; TF1-275, TT, 20 February 2008, pp. 4372, 4348, 4350, 4354-56, 4366: stating Menquenagbeh (as the witness spelt it) was the overall commander who supervised every military operation that took place in Sierra Leone at the time; TF1-274, TT, 1 December 2008, pp. 21317, 21330, 21352; Exh. P-54, p. 00100162; TF1-338, TT, 1 September 2008, p. 15107; Accused, TT, 15 September 2009, p. 28936.

<sup>267</sup> TF1-274, TT, 1 December 2008, pp. 21317, 21330: stating One Man One used to report to General Degbon aka Energy.

<sup>268</sup> [REDACTED]; TF1-567, TT, 2 July 2008, p. 12851; [REDACTED]; Exh. P-54, p. 00100162; TF1-337, TT, 4 March 2008, p. 5258; TF1-274, TT, 1 December 2008, pp. 21307, 21310; DCT-292, TT, 2 June 2010, p. 41870-71.

<sup>269</sup> TF1-584, TT, 17 June 2008, p. 12053.

<sup>270</sup> TF1-584, TT, 17 June 2008, p. 12054: stating he was an NPFL fighter who deputised CO Dugba at the base.

<sup>271</sup> TF1-567, TT, 2 July 2008, pp. 12825-26: stating Jah Glory was a Liberian member of NPFL and was a training instructor at Camp Naama.

<sup>272</sup> TF1-561, TT, 14 May 2008, pp. 9860, 9866: stating that when Varmoh returned to Liberia from Sierra Leone he worked as security at the Liberian Petroleum Refinery Company.

<sup>273</sup> See for example [REDACTED]

[REDACTED]; TF1-567, TT, 2 July 2008, pp. 12829-30; [REDACTED]

<sup>274</sup> [REDACTED]

<sup>275</sup> [REDACTED]

[REDACTED]. See also Exhibit P-54.

<sup>276</sup> TF1-532, TT, 10 March 2008, pp. 5670-5674. See also DCT-292, TT, 1 June 2010, pp. 41711-14, 41732-35.

81. About 300 RUF fighters trained at Camp Naama were integrated into the NPFL battalions which led the invasion into Sierra Leone. [REDACTED]

[REDACTED]<sup>277</sup> RUF battalions were created three to four months after the initial incursion into Sierra Leone because there was an insufficient number of Sierra Leonean recruits from inside Liberia to create a battalion or even a company at the time of the invasion. [REDACTED]

[REDACTED]<sup>278</sup>

82. After the initial attack in March 1991, Taylor's NPFL troops fought on the front lines in Sierra Leone alongside RUF troops.<sup>279</sup> In addition to the NPFL who made up the majority of fighters for the initial attack on Sierra Leone during 1991 and 1992, the Accused provided NPFL fighters for reinforcement in Sierra Leone. NPFL convoys with manpower travelled frequently—every one or two days or even daily—through Foya to Sierra Leone.<sup>280</sup> Sometimes NPFL commanders in Sierra Leone asked Taylor, via radio, for reinforcements from Liberia for the front lines in Sierra Leone.<sup>281</sup> In July/August 1991, Taylor sent radio operators as well as commandos from Foya, Liberia, to Koindu, Sierra Leone, to reinforce the fighters there.<sup>282</sup> These combined NPFL and RUF forces fought against the Sierra Leonean government troops<sup>283</sup> and ULIMO forces.<sup>284</sup> Several NPFL units such as the Red Scorpion or the Death Squad Unit were crossing back and forth into Sierra Leone.<sup>285</sup> At the end of 1991, NPFL front line commanders in Sierra Leone included one NPFL from Gambia who was called Mon Ami.<sup>286</sup> In 1992, ULIMO troops fought against both RUF and NPFL forces in Sierra Leone in Pujehun district.<sup>287</sup>

<sup>277</sup> [REDACTED]

<sup>278</sup> [REDACTED]

<sup>279</sup> [REDACTED]; TF1-274, TT, 1 December 2008, pp. 21328-29.

<sup>280</sup> TF1-275, TT, 20 February 2008, pp. 4350, 4354-4355; TF1-274, TT, 1 December 2008, pp. 21321-25, 21328-34; the witness learned this while he was in Bomi Hills; TF1-045, TT, 12 November 2008, pp. 20080-82.

<sup>281</sup> TF1-274, TT, 1 December 2008, pp. 21325, 21329, 21333, 21349. See also TF1-275, TT, 20 February 2008, p. 4350.

<sup>282</sup> TF1-275, TT, 20 February 2008, pp. 4357-59.

<sup>283</sup> See, for example, TF1-275, TT, 20 February 2008, p. 4346.

<sup>284</sup> TF1-406, TT, 9 January 2008, pp. 799-800 & 10 January 2008, pp. 890, 926; Accused, TT, 22 July 2009, p. 25001; stating he was cooperating with Foday Sankoh on the border fighting ULIMO; Accused, TT, 15 September 2009, pp. 28942-43.

<sup>285</sup> TF1-274, TT, 1 December 2008, p. 21321; TF1-339, TT, 12 March 2008, p. 5902.

<sup>286</sup> TF1-338, TT, 1 September 2008, pp. 15105-06; stating he was also known as Paul Vaye Mon Ami; DCT-172, TT, 5 July 2010, p. 43616; TF1-045, TT, 12 November 2008, p. 20070.

<sup>287</sup> TF1-406, TT, 9 & 10 January 2008, pp. 799-800, 890, 926-29; "When we were fighting we captured people and also when we get to a village we interview civilians, we would see the writings on the houses "RUF" or

83. The Black Gadaffa aka Black Kaddafa unit was formed in Liberia in 1991 at the direction of Charles Taylor. It was a combined force which included RUF and NPFL who had retreated from Sierra Leone. Taylor placed NPFL commanders General Pepe aka Pepper and Devon aka Degbon in charge of the unit. Taylor provided the unit with arms and ammunition, and he and Sankoh also gave the unit “courageous words” and told them they had to regain the border area and return to Sierra Leone.<sup>288</sup> The Black Gadaffa unit proceeded to Sierra Leone and attempted to regain the border areas in Sierra Leone. General Pepper and General Devon passed on a message from Taylor that if they fought strongly, Taylor would provide arms and ammunition to continue the war in Sierra Leone.<sup>289</sup> In 1992, one of the missions given to the Black Gadaffa unit was to fight in Liberia to prevent ULIMO from cutting off the Liberia-Sierra Leone supply channels. Black Gadaffa failed in that mission.<sup>290</sup>

84. [REDACTED]  
[REDACTED]<sup>291</sup> At that time, after Sankoh had complained about the extent of the crimes being committed against civilians by Taylor’s fighters<sup>292</sup> and after NPFL and RUF “brother fought brother,”<sup>293</sup> the Accused became angry and withdrew most of his men. Even after this withdrawal, however, Taylor continued his involvement, participation, and concerted action with the RUF, and many of the NPFL who remained in Sierra Leone continued in, or moved into, command roles in the RUF. Among those NPFL, NPFL trainers or trainees who were, or became, important figures in the RUF leadership were: Dennis Mingo aka Superman,<sup>294</sup> Isaac Mongor,<sup>295</sup> Foday Lansana aka CO Nya,<sup>296</sup> Base Marine,<sup>297</sup>

“NPFL.” So that’s how I managed to know, people that we interview.” See also TF1-045, TT, 12 November 2008, pp. 20080-82.

<sup>288</sup> TF1-571, TT, 8 May 2008, pp. 9331-35, 9339-41, 9562-63. See also TF1-360, TT, 4 February 2008, pp. 3030-32.

<sup>289</sup> TF1-360, TT, 4 February 2008, pp. 3032-34: the witness explained at p. 3034 that the RUF were given guns because many of the NPFL already had guns.

<sup>290</sup> TF1-045, TT, 12 November 2008, pp. 20082-85; TF1-045, TT, 14 November 2008, pp. 20276-78: General Devon said that this order came from Charles Taylor.

<sup>291</sup> See for example [REDACTED].

<sup>292</sup> TF1-561, TT, 14 May 2008, p. 9862; [REDACTED]; [REDACTED]; Accused, TT, 20 July 2009, pp. 24812, 24839.

<sup>293</sup> Accused, TT, 20 July 2009, p. 24822.

<sup>294</sup> [REDACTED]; TF1-567, TT, 2 July 2008, p. 12873. See also Accused, TT, 15 September 2009, pp. 28934-35: The Accused admitted Superman (aka Dennis Mingo) trained in Nimba County.

<sup>295</sup> [REDACTED]; TF1-532, TT, 11 March 2008, pp. 5712, 5722-23; Accused, TT, 15 September 2009, pp. 28934-35: The Accused admitted that (Isaac) Mongor trained in Nimba County.

Kailondo,<sup>298</sup> Emmanuel Johnson aka Rocky CO,<sup>299</sup> Boston Flomo aka RUF Rambo,<sup>300</sup> Joseph Brown,<sup>301</sup> Alfred Brown,<sup>302</sup> Monica Pearson,<sup>303</sup> Eldred Collins,<sup>304</sup> CO Lion,<sup>305</sup> CO Kondewa<sup>306</sup> and Tactical.<sup>307</sup> Others from Sierra Leone and Liberia who were trainers at Taylor's Camp Naama included: Mohamed Tarawalli aka Zino,<sup>308</sup> Mike Lamin,<sup>309</sup> and trainees Sam Bockarie, Issa Sesay, Philip Palmer, Morris Kallon,<sup>310</sup> Lawrence Womandia<sup>311</sup> and Edward Fembeh.<sup>312</sup>

<sup>296</sup> [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12830-31; TF1-274, TT, 1 December 2008, p. 21351.

<sup>297</sup> [REDACTED]; DCT-062, TT, 22 April 2010, p. 39627.

<sup>298</sup> [REDACTED]; DCT-102, TT, 4 November 2010, p. 48781.

<sup>299</sup> [REDACTED]; DCT-102, TT, 1 November 2010, p. 48383.

<sup>300</sup> [REDACTED]; TF1-567, TT, 2 July 2008, p. 12910; Accused, TT, 15 September 2009, pp. 28934-35: The Accused admitted that Boston Flomo (aka Rambo), trained in Nimba County.

<sup>301</sup> [REDACTED]; DCT-299, TT, 24 June 2010, p. 43308; [REDACTED]

<sup>302</sup> TF1-274, TT, 2 December 2008, pp. 21412, 21493; DCT-062, TT, 22 April 2010, p. 39667.

<sup>303</sup> TF1-567, TT, 2 July 2008, p. 12825: stating Pearson was Liberian, trained in Camp Naama, and became one of the commanders at the training base serving as deputy to Charles Timber. She was also the WACs commander and part of the vanguard group; [REDACTED]

[REDACTED]; TF1-375, TT, 23 June 2008, p. 12477; DCT-215, TT, 25 March 2010, pp. 38040-41; DCT-172, TT, 5 July 2010, p. 43617.

<sup>304</sup> TF1-567, TT, 2 July 2008, pp. 12881-82: stating Collins was one of the RUF vanguards who trained in Camp Naama and served as spokesman for Superman's group, western jungle; [REDACTED]

<sup>305</sup> TF1-567, TT, 2 July 2008, p. 12928: describing CO Lion as a Liberian RUF vanguard and mining commander in Koidu Town; [REDACTED]

<sup>306</sup> TF1-375, TT, 23 June 2008, p. 12487: describing CO Kondewa as an old NPFL fighter.

<sup>307</sup> TF1-375, TT, 23 June 2008, pp. 12496-97.

<sup>308</sup> TF1-375, TT, 23 June 2008, p. 12483; [REDACTED]; TF1-274, TT, 1 December 2008, p. 21302; TF1-567, TT, 2 July 2008, p. 12872-73; TF1-367, TT, 20 August 2008, p. 14096; DCT-062, TT, 26 April 2010, p. 40001: while the witness stated he did not know who the Special Forces were, he testified that Tarawalli was a trainer at Naama; DCT-025, TT, 12 March 2010, p. 37246; DCT-172, TT, 5 July 2010, p. 43601.

<sup>309</sup> [REDACTED]; TF1-274, TT, 1 December 2008, p. 21302; TF1-367, TT, 20 August 2008, p. 14096; DCT-062, TT, 26 April 2010, p. 40001: while the witness stated he did not know who the Special Forces were, he testified that Lamin was a trainer at Naama; DCT-025, TT, 12 March 2010, p. 37246; DCT-172, TT, 5 July 2010, p. 43601.

<sup>310</sup> [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12820-21, 12852; DCT-215, TT, 25 March 2010, pp. 38040-41; DCT-025, TT, 12 March 2010, p. 37245.

<sup>311</sup> TF1-567, TT, 2 July 2008, p. 12930; [REDACTED]; DCT-215, TT, 25 March 2010, pp. 38040-41.

<sup>312</sup> TF1-567, TT, 4 July 2008, p. 12964; DCT-292, TT, 2 June 2010, p. 41889.



Taylor summoned Sankoh to determine the way forward after Taylor withdrew most of his NPFL

85. After the NPFL withdrawal, Taylor communicated with Sankoh over the radio, checking on the situation within the RUF. Taylor ordered Sankoh to travel to Gbarnga to determine the way forward. After the meeting with Taylor, Sankoh returned with several radio operators who were now tasked to work with the RUF, including Alfred Brown, King Perry, Samuel Lamboi, Osman Tollo, and Sahr James.<sup>313</sup>

Taylor planned the late 1992 operation to take diamond rich Kono

86. As noted above, Taylor withdrew most of his NPFL from Sierra Leone around June 1992. However, after that event, Sankoh and the RUF continued to have free passage through Taylor-held territory until some time in 1993. When Taylor told the Court that if Sankoh or anybody else came to Liberia during late 1992 to early 1993, then he, Taylor, is guilty, the Accused was merely admitting the obvious.<sup>314</sup> The evidence before the Court shows that members of the RUF did just that: until late 1992 or early 1993, RUF personnel remained in Liberia. Gbarnga continued to be the transit point for RUF fighters moving into Kailahun District from other points in Liberia, and Sankoh continued to travel to and from Sierra Leone and Gbarnga.<sup>315</sup> Indeed, ever vigilant for an opportunity to pillage the diamond resources of Sierra Leone, in late 1992 in Gbarnga, Taylor and Sankoh formed a plan to capture Kono District because it was a diamondiferous area. Sankoh subsequently explained the plan to senior members of the RUF, including Sam Bockarie, Issa Sesay and Morris Kallon. Sankoh explained to them that they should capture Kono to get more diamonds so that they would be able to continue the war.<sup>316</sup>
87. Around October or November 1992, RUF fighters were still present in Liberia, including in the Kakata area. Taylor came to Kakata and directed that RUF fighters located in that area be gathered together. Taylor addressed the fighters, telling them that Sankoh was going to take them on a “big mission” in Sierra Leone. Sankoh arrived

<sup>313</sup> TF1-275, TT, 20 February 2008, pp. 4380-81, 4386-87.

<sup>314</sup> Accused, TT, 15 September 2009, p. 28986.

<sup>315</sup> See for example, TF1-567, TT, 2 July 2008, pp. 12853-57; TF1-275, TT, 20 February 2008, p. 4387; TF1-274, TT, 1 December 2008, pp. 21361-65: the witness was among the RUF based at Kakata at that time.

<sup>316</sup> TF1-567, TT, 2 July 2008, pp. 12853-57: after the meeting between Sankoh and Taylor in Gbarnga, Sankoh told the witness, who had accompanied Sankoh to Gbarnga, about this plan they had devised; TF1-360, TT, 4 February 2008, pp. 3045-46; TF1-567, TT, 2 July 2008, pp. 12844-47, 12853-57, 12862-63: the witness traveled with Sankoh and was present at the meetings; TF1-275, TT, 20 February 2008, p. 4395-96: the witness saw the materiel Sankoh brought back from Gbarnga for the Kono mission; TF1-571, TT, 9 May 2008, pp. 9424-25.

with arms and ammunition and took the RUF fighters first to Gbarnga and then on to Pendembu, Kailahun District.<sup>317</sup> Thereafter, the operation to take Kono was put into effect. After the attack on Kono succeeded, Sankoh took diamonds to Taylor and in return received more ammunition.<sup>318</sup>

Taylor provided the materiel for the initial and subsequent attacks

88. The NPFL provided the ammunition used for the initial NPFL/RUF attack on Sierra Leone.<sup>319</sup> After the attack, Taylor ensured that the NPFL and RUF in Sierra Leone received arms and ammunition to sustain the momentum of the attack and to capture additional areas. From the initial attack until access to the border between Sierra Leone and Liberia was significantly reduced, Taylor regularly provided his NPFL and his proxy force, the RUF, with arms and ammunition and other supplies such as food and medicine.<sup>320</sup> Taylor provided this materiel from various areas within his control in Liberia, including Gbarnga and Harbel, his 2<sup>nd</sup> Battalion headquartered in Lofa County, and from the 6<sup>th</sup> Battalion in Bomi Hills.<sup>321</sup>
89. As noted below, for a time after the initial invasion of Sierra Leone, Sankoh was based in Liberia, including at Gbarnga, Bong County, Taylor's headquarters, from which he

<sup>317</sup> TF1-274, TT, 1 December 2008, pp. 21360-71 and 8 December 2008, pp. 21993-95 and 11 December 2008, pp. 22257-58: witness was present at the meeting in Kakata when Taylor and Sankoh came in a convoy; TF1-360, TT, 4 February 2008, pp. 3034-37, 3045-46: the witness was present when Taylor made these pronouncements [REDACTED]; Accused, TT, 16 July 2009, p. 24663 and 16 November 2009, p. 31799.

<sup>318</sup> TF1-360, TT, 4 February 2008, pp. 3045-46; TF1-567, TT, 2 July 2008, pp. 12862, 12866-67. [REDACTED]

<sup>319</sup> [REDACTED]

[REDACTED] TF1-367, TT, 20 August 2008, pp. 14098-99: All the material and the supplies for the attack on Sierra Leone came from the Accused.

<sup>320</sup> See for example TF1-567, TT, 2 July 2008, pp. 12829, 12838-45, 12867; TF1-275, TT, 20 February 2008, pp. 4354-55: stating that "while in Foya for a day or two I used to see truck loads of manpower, arms and ammunition from Voinjama, they will stop at the sub-headquarters at the radio station where I was stationed. They would unload some food stuff and ammunition there and would continue their journey into Sierra Leone commonly known as Kuwait."; TF1-274, TT, 1 December 2008, pp. 21369-71, 21387; [REDACTED]

[REDACTED]; TF1-568, TT, 17 September 2008, pp. 16417-18; TF1-571, TT, 8 May 2008, pp. 9332-33; TF1-388, TT, 9 July 2008, p. 13261.

<sup>321</sup> See for example, [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12829, 12864-65; [REDACTED]; TF1-337, TT, 4 March 2008, pp. 5251-54 and 10 March 2008, p. 5666: the witness saw these weapons Sankoh said were from Taylor; TF1-338, TT, 1 September 2008, p. 15107; TF1-045, TT, 12 November 2008, p. 20076; TF1-532, TT, 10 March 2008, p. 5681; TF1-275, TT, 20 February 2008, p. 4354; TF1-579, TT, 5 November 2008, pp. 19815-16; TF1-584, TT, 11 February 2008, p. 3533; TF1-360, TT, 4 February 2008, pp. 3034-36, 3045-46; Accused, TT, 16 July 2009, pp. 24659-64, 24666-67, 24689-90.

would visit the fighters in Pujehun District and Kailahun District.<sup>322</sup> Taylor admitted that Sankoh had a residence in Gbarnga,<sup>323</sup> though the Accused lied about the time period during which Sankoh had that residence there. Both during the time Sankoh was based in Liberia and after he relocated to Sierra Leone, Sankoh himself would frequently bring arms and ammunition and other critically needed supplies such as medicine and food from Taylor to the fighters in Pujehun and Kailahun Districts. When Sankoh travelled to Gbarnga from his base in Sierra Leone, he travelled with his bodyguards and other personnel.<sup>324</sup>

90. Arms, ammunition and other supplies were also frequently sent to Sierra Leone in NPFL convoys or single vehicles.<sup>325</sup> The arms and ammunition from Taylor were distributed to the front lines.<sup>326</sup> Taylor's Liberian commanders also supplied arms and ammunition to fighters at the front lines in Sierra Leone.<sup>327</sup>

Taylor sent materiel to Pujehun and Kailahun Districts

91. In 1991 and 1992, One Man One aka Scorpion was the ground commander in Pujehun District. He was among the NPFL commanders who took arms and ammunition to NPFL and RUF fighters in Pujehun District from Bomi Hills, headquarters of the NPFL

<sup>322</sup> See for example TF1-045, TT, 12 November 2008, pp. 20074-78 and 13 November 2008, p. 20158: the witness was assigned to Pujehun District between 1991 and 1994; TF1-367, TT, 20 August 2008, pp. 14105-06; [REDACTED]; TF1-532, TT, 10 March 2008, pp. 5673-77; [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12838-41, 12854-55: the witness travelled with Sankoh; TF1-338, TT, 1 September 2008, pp. 15106-07.

<sup>323</sup> Accused, TT, 10 September 2009, p. 28597 and 1 October 2009, pp. 30042-43.

<sup>324</sup> TF1-045, TT, 12 November 2008, pp. 20074-78 and 13 November 2008, p. 20158: the witness was assigned to Pujehun District between 1991 and 1994. In 1991, Sankoh brought arms and ammunition and medicine from his brother Taylor in Gbarnga; TF1-367, TT, 20 August 2008, pp. 14105-06; TF1-567, TT, 2 July 2008, pp. 12863-65; [REDACTED]; TF1-360, TT, 4 February 2008, pp. 3045-46; TF1-388, TT, 9 July 2008, pp. 13261-63; TF1-577, TT, 4 June 2008, pp. 10916-22: the witness, CO Lion and Captain Ben were among those who traveled with Sankoh - they passed through Foya, Voinjama, Zorzor to Gbarnga, crossing the Sierra Leone border through Koindu in Mendekoma without any problems; TF1-338, TT, 1 September 2008, pp. 15107-10: witness went with Sankoh twice, others who traveled with Sankoh included Papa (a Liberian NPFL), Captain Ben (Sierra Leonean Black Guard), Rashid Foday, and Junior (Liberian NPFL); Exh. P-65; TF1-337, TT, 4 March 2008, pp. 5220-22; TF1-274, TT, 1 December 2008, pp. 21369-72; [REDACTED]

[REDACTED]; Accused, TT, 22 July 2009, p. 25001: stating he gave Foday Sankoh "from time to time...small amounts of ammunition" and 15 September 2009, p. 28943.

<sup>325</sup> TF1-275, TT, 20 February 2008, pp. 4354-55, 4357-59: witness assigned in Foya for several weeks before being sent to Sierra Leone; convoys had materiel and manpower; TF1-567, TT, 2 July 2008, pp. 12841-42.

<sup>326</sup> See for example TF1-567, TT, 2 July 2008, pp. 12838-44; TF1-338, TT, 1 September 2008, pp. 15107-10. See also TF1-274, TT, 1 December 2008, pp. 21385-88.

<sup>327</sup> See for example TF1-338, TT, 1 September 2008, pp. 15107-10.

6<sup>th</sup> Battalion. One Man One also took medicine to the fighters in Pujehun District.<sup>328</sup> Taylor supplied the fighters in Kailahun District with materiel as well. When materiel and supplies for Kailahun District were ready, the Accused would send a radio message to Sankoh and Sankoh would dispatch some of his men to go and collect the materiel.<sup>329</sup> At the end of 1992, beginning of 1993, Sankoh brought land mines and chasers—weapons used to shoot down Alpha jets—from Taylor.<sup>330</sup> Later, Zigzag Marzah was among those of Taylor's Liberian subordinates who transported chaser rockets into Sierra Leone to attack ECOMOG aircraft.<sup>331</sup>

Taylor provided materiel for the late 1992 operation to take Kono

92. With his eye on the diamond resources of Sierra Leone from the beginning, in late 1992, Taylor supplied the war materiel the fighters used to implement his plan to capture Kono, as "*Kono had diamonds*."<sup>332</sup> Taylor also provided arms and ammunition to the RUF personnel around Kakata who were sent back to Sierra Leone for this big mission.<sup>333</sup> After the attack on Kono succeeded, Taylor gave Sankoh more ammunition in exchange for the Kono diamonds Sankoh delivered to Taylor.<sup>334</sup>

Taylor provided communications capability

93. Taylor provided the RUF with vital and diverse communications support, the benefits of which continued throughout the conflict in Sierra Leone. Taylor gave the RUF access to NPFL communications – both in Sierra Leone and in his controlled area in Liberia.<sup>335</sup> Prior to the initial invasion of Sierra Leone, the NPFL had an existing radio network.<sup>336</sup>

<sup>328</sup> TF1-045, TT, 12 November 2008, pp. 20074-79 and 13 November 2008, p. 20158. [REDACTED]

[REDACTED]; TF1-337, TT, 4 March 2008, pp. 5251-53, 5256-58.

<sup>329</sup> TF1-360, TT, 4 February 2008, pp. 3045-46.

<sup>330</sup> TF1-577, TT, 4 June 2008, pp. 10922-25.

<sup>331</sup> TF1-399, TT, 12 March 2008, pp. 5875-76.

<sup>332</sup> TF1-274, TT, 1 December 2008, p. 21371; TF1-567, TT, 2 July 2008, p. 12854; TF1-275, TT, 20 February 2008, pp. 4394-96; TF1-360, TT, 4 February 2008, p. 3046.

<sup>333</sup> TF1-274, TT, 1 December 2008, pp. 21360-64, 21366-71 and 8 December 2008, pp. 21993-96 and 11 December 2008, p. 22257-58: witness was present at the meeting in Kakata; TF1-360, TT, 4 February 2008, pp. 3034-36, 3045-46. [REDACTED] Accused, TT, 16 July 2009, p. 24663 and 16 November 2009, p. 31799.

<sup>334</sup> TF1-360, TT, 4 February 2008, p. 3046; TF1-567, TT, 2 July 2008, pp. 12866-67. [REDACTED]

<sup>335</sup> [REDACTED]

[REDACTED] TF1-367, TT, 20 August 2008, pp. 14105-07: access to Sankoh in Gbarnga.

<sup>336</sup> Accused, TT, 20 July 2009, pp. 24809-11 and 11 November 2009, p. 31602 and 27 October 2009, pp. 30400, 30405, 30407. See also TF1-567, TT, 2 July 2008, p. 12839; TF1-516, TT, 8 April 2008, p. 6889.

During the early stages of the invasion of Sierra Leone by the NPFL and RUF, only NPFL radio operators were active on the front lines in Sierra Leone, as the RUF did not have any trained operators.<sup>337</sup>

94. Taylor provided communications training to the RUF. In 1991, the NPFL sent CO Nya aka Foday Lansana, a Gio, and some other NPFL radio operators to install high frequency radio facilities in RUF-held territories – Koindu and later Pendembu – to prepare the radio codes and to train RUF operators in Sierra Leone who thereafter became responsible for the different RUF radio stations.<sup>338</sup> The newly installed radio at Koindu was tested by contacting NPFL radio stations at Vahun, Voinjama and Gbarnga.<sup>339</sup> CO Nya was later promoted to overall signal commander for the RUF—the promotion came via radio communication from Gbarnga from Taylor’s subordinate Galakpalah, the deputy overall commander for NPFL signals and radios in Liberia.<sup>340</sup> Around mid-1992, several RUF members were trained on radio communication in Bomi Hills in Liberia by the NPFL Signal Unit.<sup>341</sup> They remained with the NPFL in that area until ULIMO forced the NPFL out, and then they retreated with the NPFL.<sup>342</sup> Once they had been trained, RUF radio operators monitored the NPFL radio net and NPFL and RUF operators shared radio communication codes.<sup>343</sup>
95. From its inception, the RUF’s radio network was integrated with the existing NPFL radio network in terms of codes,<sup>344</sup> and both operated initially off the same national frequency (or meeting point).<sup>345</sup> Radio operators were usually assigned to particular radio stations that were attached to bases; they could also be assigned to specific

<sup>337</sup> TF1-275, TT, 20 February 2008, p. 4364; TF1-274, TT, 1 December 2008, pp. 21353-54.

<sup>338</sup> TF1-275, TT, 20 February 2008, pp. 4361-64, 4370, 4379-80, 4386-89, 4431: the witness, who trained radio operators until 1996, stated: “I spent the rest of 1992 and 1993 in Pendembu training the RUF commandos on how to conduct communication, how to encode and how to erect radios at the front line on the battlefield... the RUF were equipped with communication sets and operators that were trained began to use those communications sets. We had a radio station in Kailahun, Bunumbu, Gandorhun, Koidu, Kuiva”; TF1-274, TT, 1 December 2008, p. 21351 and 2 December 2008, p. 21416. See also TF1-567, TT, 2 July 2008, p. 12831; TF1-584, TT, 17 June 2008, pp. 12067-68.

<sup>339</sup> TF1-275, TT, 20 February 2008, pp. 4363-64, 4349.

<sup>340</sup> TF1-275, TT, 20 February 2008, pp. 4380-81 and 21 February 2008, pp. 4426, 4428: CO Nya remained in this position until he was removed by Bockarie in 1996; TF1-274, TT, 1 December 2008, p. 21351; TF1-584, TT, 17 June 2008, pp. 12066, 12068; Accused, TT, 27 October 2009, p. 30487: Galakpalah was the deputy chief of radio operation, the chief of communications was Special Forces William Gensen; DCT-179, TT, 22 February 2010, pp. 35642-43: Galakpalah or Galakpaye, deputy commander of NPFL Signal Unit; DCT-228, TT, 18 May 2010, p. 41162: Galakpai was the NPFL deputy chief of signal.

<sup>341</sup> TF1-274, TT, 1 December 2008, pp. 21335-42: Training lasted from late 1991 to mid-1992.

<sup>342</sup> TF1-274, TT, 1 December 2008, pp. 21359-60; DCT-228, TT, 31 May 2010, pp. 41566-67, 41580.

<sup>343</sup> TF1-274, TT, 1 December 2008, pp. 21377-79. See also Accused, TT, 20 July 2009, pp. 24809-10.

<sup>344</sup> TF1-275, TT, 21 February 2008, pp. 4475-4476; TF1-274, TT, 1 December 2008, p. 21350.

<sup>345</sup> TF1-360, TT, 5 February 2008, p. 3075; TF1-274, TT, 1 December 2008, pp. 21349-51.

commanders including, as designated, to operate a mobile radio set if the commander was moving. The radios used by the RUF could operate as either fixed stations or mobile,<sup>346</sup> on a high frequency and with a range that could reach outside of Sierra Leone to other countries within the sub-region.<sup>347</sup> Call signs designated operators themselves, a certain station,<sup>348</sup> or a certain commander,<sup>349</sup> and would change periodically.<sup>350</sup>

96. The RUF radio networks used radio communication protocols requiring that substations relay messages, updates, situation reports and requests to the headquarters station which was the control station. Messages went through substations to the “control station.”<sup>351</sup> Messages between stations were recorded in logbooks maintained by operators at the stations.<sup>352</sup> For example, a commander would initially pass the message to the operator in “plain language,” the message would then be coded and sent on to another station where it would be decoded and passed on in plain language to the intended recipient.<sup>353</sup> Commander-to-commander “conversations,” in which two commanders were put on the radio set to converse directly, were not recorded in logbooks.<sup>354</sup> There were two types of codes in the RUF communications system:<sup>355</sup> “content” coding where words such as “attack” or “ammunition” were given code names,<sup>356</sup> and “frequency” coding, where frequencies were given a code so subsequent communication could occur without outside monitoring.<sup>357</sup> The Accused acknowledged that frequencies were critical to monitoring radio communications, stating that “once you get on a frequency there’s

<sup>346</sup> TF1-275, TT, 21 February 2008, pp. 4433-34.

<sup>347</sup> TF1-275, TT, 21 February 2008, p. 4432.

<sup>348</sup> TF1-360, TT, 5 February 2008, pp. 3071, 3073.

<sup>349</sup> TF1-360, TT, 4 February 2008, p. 3062; TF1-360, TT, 5 February 2008, pp. 3067-69, 3082.

<sup>350</sup> TF1-360, TT, 5 February 2008, p. 3071.

<sup>351</sup> TF1-360, TT, 4 February 2008, pp. 3062-63; TF1-274, TT, 1 December 2008, pp. 21342-44; TF1-585, TT, 5 September, 2008, pp. 15596-97; TF1-584, TT, 17 June 2008, p. 12077; TF1-516, TT, 8 April 2008, p. 6892. See also TF1-275, TT, 21 February 2008, pp. 4437-38 regarding “net calls.”

<sup>352</sup> TF1-568, TT, 15 September 2008, pp. 16258-59; TF1-360, TT, 4 February 2008, p. 3064; TF1-275, TT, 21 February 2008, p. 4438.

<sup>353</sup> TF1-516, TT, 8 April 2008, p. 6907; TF1-360, TT, 4 February 2008, p. 3064.

<sup>354</sup> TF1-360, TT, 7 February 2008, p. 3310; TF1-275, TT, 21 February 2008, p. 4438.

<sup>355</sup> TF-516, TT, 8 April 2008, pp. 6925-30.

<sup>356</sup> TF-360, TT, 5 February 2008, p. 3069; TF1-275, TT, 21 February 2008, pp. 4443-45, 4471-73; Exh. P-83, p. 00025639 and explained by TF1-275, TT, 21 February 2008, pp. 4462-65 and by TF1-516, TT, 8 April 2008, pp. 6899-903, 6925.

<sup>357</sup> TF1-274, TT, 1 December 2008, pp. 21343-44, 21346; TF1-360, TT, 5 February 2008, p. 3141; TF1-568, TT, 15 September 2008, p. 16250; TF1-275, TT, 21 February 2008, pp. 4439-43; TF1-516, TT, 8 April 2008, pp. 6893-94, 6909. See also DCT-228, TT, 21 May 2010, pp. 41477-78; DCT-008, TT, 24 August 2010, pp. 47038-39 and 30 August 2010, pp. 47490-91.

nothing secret,” and that the NPFL also used codes.<sup>358</sup> Codes were changed periodically, with new codes distributed by the control station.<sup>359</sup> Operators with access to frequency and content codes frequently monitored communications of other stations to keep commanders informed as to what was happening in other areas or about communications between other stations and/or their commanders.<sup>360</sup> Within the RUF network, some radio sets were designated exclusively as “monitoring” sets and were not used for transmitting messages.<sup>361</sup> The NPFL radio network followed the protocols that were described above in terms of messages, frequencies, and monitoring.<sup>362</sup>

97. Taylor and Sankoh communicated by radio; the Accused used the code name “Ebony” and Foday Sankoh used the code name “Toyota.”<sup>363</sup> Taylor’s NPFL radio operator was a Gambian named Yanks Smythe with the code name “Butterfly,”<sup>364</sup> and Taylor’s command station at Gbarnga was called “Treetop.”<sup>365</sup> During the early stages of the conflict, Foday Sankoh was based alternatively in Sierra Leone and in Taylor-controlled areas of Liberia.<sup>366</sup> Sankoh was permitted to make use of Taylor’s radio communications in Gbarnga<sup>367</sup> and also had access to NPFL radio communications in Foya in order to communicate with the Accused before travelling to Gbarnga to receive materiel from the Accused.<sup>368</sup> Even Taylor admitted that during a certain period of time (the duration of which he lied about), Sankoh was tied in to the NPFL radio frequencies and could call Dopoe Menkarzon or any senior radio people, and that he, Taylor, sent

<sup>358</sup> Accused, TT, 28 October 2009, pp. 30525-27 and 4 November 2009, pp. 31089-90.

<sup>359</sup> TF1-274, TT, 1 December 2008, p. 21346; TF1-516, TT, 8 April 2008, p. 6894; DCT-228, TT, 21 May 2010, p. 41478.

<sup>360</sup> TF1-360, TT, 5 February 2008, pp. 3069-70; TF1-568, TT, 12 September 2008, p. 16107; 15 September 2008, p. 16251; TF1-516, TT, 8 April 2008, p. 6908; DCT-228, TT, 19 May 2010, pp. 41177-79.

<sup>361</sup> TF1-275, TT, 21 February 2008, pp. 4429-30.

<sup>362</sup> TF1-274, TT, 1 December 2008, p. 21344; DCT-179, TT, 22 February 2010, pp. 35644-46.

<sup>363</sup> TF1-360, TT, 4 February 2008, pp. 3049-50: on some occasions, the Accused and Foday Sankoh would use different code names, namely subjects, for the purpose of communications; pp. 3037-38: a message would be received from Charles Taylor, decoded, entered into a logbook, with a copy sent to Foday Sankoh; TF1-274, TT, 1 December 2008, p. 21358. See also Accused, TT, 16 September 2009, p. 28992.

<sup>364</sup> Accused, TT, 22 July 2009, p. 25079.

<sup>365</sup> Accused, TT, 27 October 2009, p. 30471-72: Treetop was the name in 1991.

<sup>366</sup> TF1-367, TT, 20 August 2008, pp. 14103-04, 14107-08: 2-3 months after the initial invasion into Sierra Leone, Witness was instructed to return to Gbarnga, Liberia where he was assigned as the Ground Commander at Foday Sankoh’s residence/ base in Gbarnga, Sugar Hill. He testified that Sugar Hill was near to Charles Taylor’s Mansion Ground and the two residences were separated by just a street. Witness testifies that he saw Charles Taylor and Foday Sankoh together at Mansion Ground. Witness gave evidence that he remained in Gbarnga for 6 months. So given that the initial invasion occurred in March 1991, the witnesses evidence relates to the second half of 1991.

<sup>367</sup> TF1-367, TT, 20 August 2008, pp. 14105-07; TF1-567, TT, 2 July 2008, pp. 12839, 12843-44: during a trip to Gbarnga, Liberia in 1991, “Butterfly” was Accused’s radio operator at Mansion Ground and from Mansion Ground Foday Sankoh communicated to the RUF in Sierra Leone; [REDACTED]

<sup>368</sup> TF1-567, TT, 2 July 2008, pp. 12839-44. See also Accused, TT, 20 July 2009, pp. 24809-10.

messages to Sankoh.<sup>369</sup> Taylor also allowed Sankoh access to Taylor's satellite phone.

[REDACTED]

[REDACTED]

[REDACTED]<sup>370</sup>

98. NPFL/RUF troops in Sierra Leone and Liberia communicated on a daily basis and exchanged information and updates about military developments and situations on the front lines.<sup>371</sup> Communications to Taylor via his Gbarnga radio station, Treetop, included daily reports about events on the front lines, including situations involving civilians, and radio requests for NPFL reinforcements to be sent to Sierra Leone were also sent to Taylor's radio station in 1991.<sup>372</sup>
99. After the NPFL withdrawal in mid-1992, the RUF and NPFL radio networks were almost immediately reconnected, and radio communications continued between the NPFL and RUF, including between Charles Taylor and Foday Sankoh.<sup>373</sup> Thereafter, the radio networks remained linked, with ongoing exchange of codes for the respective networks, and with the RUF in regular communication with NPFL stations at Foya, Kolahun, Zorzor and Gbarnga.<sup>374</sup> The communication line existed "until the end of the war."<sup>375</sup> Up to about 1996 or early 1997, Taylor and Sankoh sometimes spoke directly to each other over the radio.<sup>376</sup>

#### Taylor's admissions regarding communications

100. While lying about the time period, the Accused admitted that once there was cooperation between himself and Foday Sankoh's forces, "there was a tie in to frequencies"<sup>377</sup> so that Sankoh could call Liberia. If, for example, Sankoh wanted to come to see Taylor, he could call on one of these frequencies to Dopoe Menkarzon or

<sup>369</sup> Accused, TT, 11 November 2009, p. 31602 and 20 July 2009, pp. 24809-10 and 27 October 2009, pp. 30398, 30400, 30405, 30407.

<sup>370</sup>

[REDACTED]

<sup>371</sup> TF1-274, TT, 1 December 2008, pp. 21350, 21354, 21374-76, 21391.

<sup>372</sup> TF1-274, TT, 1 December 2008, pp. 21328-30, 21342, 21354-57; TF1-275, TT, 20 February 2008, pp. 4360, 4366. See also DCT-008, TT, 3 September 2010, pp. 47924-25.

<sup>373</sup> TF1-275, TT, 20 February 2008, pp. 4379-81, 4386.

<sup>374</sup> TF1-274, TT, 1 December 2008, pp. 21378-80.

<sup>375</sup> TF1-274, TT, 1 December 2008, p. 21380.

<sup>376</sup> TF1-360, TT, 4 February 2008, pp. 3049-50.

<sup>377</sup> Accused, TT, 20 July 2009, pp. 24809-10: this is consistent with TF1-516, TT, 8 April 2008, p. 6889 who testified the RUF and NPFL knew each other's frequencies.



any senior NPFL radio people with whom he had contact.<sup>378</sup> With the frequency tie in, the Accused and the NPFL could similarly contact the RUF. This contact was very easy from the NPFL side, as Taylor told the Court that the NPFL had a radio in every major town it captured.<sup>379</sup> This communications capability was in place as of the initial attack on Sierra Leone, as Taylor admitted Gbarnga had been under NPFL control as early as June, July 1990, and by June 1990 his NPFL had captured Lofa, Grand Cape Mount and Bomi counties and had encircled Monrovia.<sup>380</sup> Taylor also told the Court that if he wanted to send a message for Sankoh to come see him, Taylor's radio operator, Butterfly, would send the message to Sankoh.<sup>381</sup>

101. Taylor also admitted that "ordinary" radio operators in the NPFL and RUF got to know each other and called each other "across radio lines."<sup>382</sup> Although he falsely limited it to NPFL areas, Taylor accepted that when Butterfly got on the air, the radio operators would know the message was from Taylor.<sup>383</sup> Taylor also told the Court that Treetop was the NPFL control station located in whatever place Taylor was residing, and it was the principal radio post of about five in Gbarnga.<sup>384</sup> Consistent with Prosecution evidence, Taylor admitted that his radio code name was Ebony and Sankoh's radio code name was Toyota.<sup>385</sup>

#### Taylor continued to train the RUF both in Sierra Leone and in Liberia

##### *Training at Cobra Base*

102. One of the many training bases Taylor had in Liberia was Cobra Base, where the trainers included Gambians and Liberians subordinate to the Accused. The Accused held ultimate authority over the operations of the base and over the commanders, trainers and trainees at the base. Liberian and Sierra Leonean children under the age of 15 years were trained there, receiving the same training as adults, including combat

<sup>378</sup> Accused, TT, 20 July 2009, pp. 24809-10; consistent with TF1-567, TT, 2 July 2008, p. 12839.

<sup>379</sup> Accused, TT, 16 September 2009, p. 28994.

<sup>380</sup> Accused, TT, 16 July 2009, pp. 24662, 24666-67, 24671, 24687, 24690: By August 1990, the NPFL controlled 90% of Liberia, with only Monrovia outside its control.

<sup>381</sup> Accused, TT, 16 September 2009, pp. 28990, 28992, 28996: this evidence also corroborates Prosecution evidence that the NPFL and RUF shared their radio codes, that Butterfly was Taylor's radio operator and the radio code names of Taylor and Sankoh, see, for example, TF1-360, TT, 4 February 2008, pp. 3049-50.

<sup>382</sup> Accused, TT, 16 September 2009, p. 28994.

<sup>383</sup> Accused, TT, 16 September 2009, p. 28996.

<sup>384</sup> Accused, TT, 16 September 2009, pp. 29132-29134: this corroborates Prosecution evidence. For example, TF1-275, TT, 20 February 2008, pp. 4364, 4384; TF1-274, TT, 1 December 2008, p. 21342.

<sup>385</sup> Accused, TT, 16 September 2009, pp. 28992, 28996: this corroborates Prosecution evidence. For example, TF1-274, TT, 1 December 2008, pp. 21342, 21357; TF1-360, TT, 4 February 2008, p. 3050.

skills training.<sup>386</sup> Some of the civilians trained in Liberia were then sent on to fight in Sierra Leone. Taylor also visited the base and attended graduation ceremonies there,<sup>387</sup> during which visits he would have seen the child soldiers. As discussed elsewhere in the Brief, the Accused also provided military trainers and training commanders to the RUF in Sierra Leone.<sup>388</sup>

*Training of Captured Civilians in Sierra Leone*

103. The NPFL continued to provide military training to RUF “recruits” once they had moved into Sierra Leone after the initial invasion.<sup>389</sup> Taylor’s commanders in Sierra Leone also continued the practice that Taylor had set in place in Liberia of providing captives to become fighters for the RUF. In Sierra Leone, the NPFL captured civilians, including children, who were then forcibly trained as fighters for the RUF, a practice which was continued throughout the conflict by the NPFL’s younger sibling, the RUF, and later the AFRC/RUF. Those trained at Camp Naama in the use of terror as a tool against civilians were also used as trainers in Sierra Leone. This training benefited the RUF and later, AFRC/RUF, throughout the conflict, giving them the skills and means to better carry out crimes against civilians. NPFL instructors gave military training to hundreds if not thousands of local civilian adults and children, most of them captured and forced to train, in both Pujehun and Kailahun Districts.<sup>390</sup>
104. NPFL fighters participated in attacks on villages in Pujehun District in which civilians were abducted, forced to join the RUF and taken to training camps where they were trained by the NPFL. NPFL instructors opened training bases in Pujehun district in locations such as Gisiwulo,<sup>391</sup> [REDACTED]  
[REDACTED].<sup>392</sup> For example, in 1991, “Liberian rebels” led by One Man One attacked Zimmi, Pujehun District and captured civilians. The captured civilians were taken to Gisiwulo training base where they were trained by Liberian NPFL and RUF. Mon Ami,

<sup>386</sup> TF1-548, TT, 08 February 2008, pp. 3478-79, 3490.

<sup>387</sup> TF1-548, TT, 8 February 2008, pp. 3475-90.

<sup>388</sup> See the evidence discussed in the section of this Brief concerning Count 9 (Child Soldiers).

<sup>389</sup> TF1-567, TT, 2 July 2008, pp. 12820-23; TF1-577, TT, 3 June 2008, pp. 10874-75; TF1-045, TT, 12 November 2008, pp. 20068-70; TF1-388, TT, 1 September 2008, pp. 15073-74, 15096-97.

<sup>389</sup> See for example, TF1-567, TT, 2 July 2008, pp. 12818-23; TF1-577, TT, 3 June 2008, pp. 10874-75; TF1-045, TT, 12 November 2008, pp. 20068-70.

<sup>390</sup> See for example, TF1-567, TT, 2 July 2008, pp. 12818-23; TF1-577, TT, 3 June 2008, pp. 10874-75; TF1-045, TT, 12 November 2008, pp. 20068-70.

<sup>391</sup> See, for example [REDACTED]; TF1-045, TT, 12 November 2008, pp. 20062-63; TF1-571, TT, 12 May 2008, p. 9555; TF1-274, TT, 1 December 2008, p. 21303.

<sup>392</sup> [REDACTED].

one of the instructors at Gisiwulo, belonged to the “Special Forces” from Gambia and said he had trained with Foday Sankoh and Charles Taylor. Liberian commanders visited Gisiwulo, including One Man One, who explained that he was the commander of all the fighters who had entered on the Pujehun front. Approximately 500 people, males and females, received training there, with ages ranging from 10 to 30 years. They received training in arms, discipline, and military tactics including ambush, as well as training regarding how to make an area fearful, meaning to kill and burn down houses so that people living in the area and even enemy fighters would be afraid.<sup>393</sup> The instructors beat the trainees. Trainees did not try to escape because those that did were severely punished; escapees were killed in front of the other trainees as an example. Upon completion of the training, the captives became junior commandos.<sup>394</sup>

105. In Kailahun District, NPFL and RUF also attacked villages and captured civilians who were then taken for training. NPFL instructors trained these captured civilians at bases such as Pendembu. For example, in March 1991, RUF rebels and “Liberian rebels” – NPFL fighters – attacked Bunumbu, Kailahun District, and captured some 100 civilian men, women and children and took them to the training base at Pendembu where they underwent military training. The captives were trained by NPFL fighters, including the following “Special Forces” commanders: CO Big Darling, CO Nymator, CO After the War, CO Rebel Baby, General Dopoe, General Mustapha and CO Sam Tuah, who appeared to be in command at the training base at that time. Men, women and children underwent this training; the women formed the WACs, a group called the SBU included boys of ages 9 – 13 years. As in Pujehun District, attempted escape was not tolerated. On one occasion, CO Sam Tuah shot and killed some men who had tried to escape; he killed them to set an example to the other trainees that they should not attempt to escape.<sup>395</sup>

<sup>393</sup> TF1-532, TT, 31 March 2008, p. 6224. Isaac Mongor is a former NPFL training commander.

<sup>394</sup> TF1-571, TT, 8 May 2008, pp. 9317-23: the witness was one of those captured and taken for training; [REDACTED]; TF1-045, TT, 12 November 2008, pp. 20055-60, 20062, 20065-70; 20071, 20073-74: the witness was one of those captured when his village was attacked and taken to Gisiwulo for training; his sister aged 7 or 8 was one of the girls captured; ages of the captives taken for training was from 7 years upward and at Gisiwulo their particulars were recorded.

<sup>395</sup> TF1-567, TT, 2 July 2008, pp. 12818-25; TF1-375, TT, 23 June 2008, pp. 12475-76: the witness was abducted and trained when he was 11 years old. SBUs from the age of 5 years, men and women were trained, some of the Liberian trainers were CO Monica Pearson, CO Babay and Krio Mammy. TF1-577, TT, 3 June 2008, p. 10868-72, 10874-75, 10880-83: the witness was one of those captured and trained; the military training included how to shoot a gun and how to attack a town. See also TF1-567, TT, 2 July 2008, pp. 12821-25 who testified that the women and girls unit was called WAS-unit [sic] and the boys in the SBU.

106. In May 1991, Charles Timber addressed newly captured civilians, including small boys, who had been taken to Pendembu Vocational Secondary School base for training. Timber introduced himself as a member of the NPFL and explained that the NPFL had come to help fight the war in Sierra Leone and that they had Sierra Leoneans among them, naming Morris Kallon and Kaifa Wai who had been trained at Camp Naama in Liberia. Monica Pearson, a Vanguard who had been trained at Camp Naama, was one of the Liberian trainers. Other Liberian NPFL trainers included Jah Glory. Liberian “Special Forces,” including Francis Mewon and Dopoe Menkarzon visited the training base, as did Foday Sankoh. Some 800 or more captured civilians – men, women and children from the age of about 13 years upwards – were trained at the base. The military training included ambush training, weapons training and “halaka” training. The trainees were beaten if they refused to undergo training.<sup>396</sup>
107. Liberian and Sierra Leonean Vanguards set up other training bases in Kailahun town,<sup>397</sup> in Gandorhun, where they trained more than 250 civilians,<sup>398</sup> and in Dia, where they trained 300 civilians – the elderly, men, women and children, including 80 SBUs and SGUs. The NPFL and RUF also captured civilians and took them for training at Sandia.<sup>399</sup>
108. NPFL instructors explained to the trainees that they, the NPFL instructors, were NPFL fighters who had come to help fight the Sierra Leone war and that they had Sierra Leoneans with them.<sup>400</sup>

#### *Advanced Weapons Training*

109. When land mines and chasers were brought to Sierra Leone rebel forces at the end of 1992, beginning of 1993, Liberian NPFL trained the RUF artillery unit in Kailahun District on how to use them.<sup>401</sup>

<sup>396</sup> TF1-567, TT, 2 July 2008, pp. 12818-23, 12825-27; [REDACTED]. See also TF1-577, TT, 3 June 2008, pp. 10868-72.

<sup>397</sup> TF1-567, TT, 2 July 2008, pp. 12827-28; DCT-172, TT, 28 July 2008, p. 44934.

<sup>398</sup> TF1-274, TT, 1 December 2008, pp. 21298-99; TF1-275, TT, 21 February 2008, p. 4506; [REDACTED].

<sup>399</sup> TF1-584, TT, 17 June 2008, pp. 12048-52, 12055, 12062: after a training of three months, the men were sent to the frontlines. See also [REDACTED].

<sup>400</sup> TF1-567, TT, 2 July 2008, p. 12820. See also TF1-045, TT, 12 November 2008, pp. 20068-70.

<sup>401</sup> TF1-577, TT, 4 June 2008, pp. 10922-25; DCT-215, TT, 31 March 2010, pp. 38461-62.

110. During 1991 and 1992, hundreds of RUF commandos also received advanced training in Liberia in Bomi Hills aka Tubmanburg, headquarters of the 6<sup>th</sup> NPFL Battalion, before being sent back to fight in Sierra Leone. The additional training included additional weapons training. They were also taught how to set the larger mines in front of trucks and the smaller mines along bush paths to injure those on foot. Sankoh visited the training base at Tubmanburg and spoke to the fighters there.<sup>402</sup>

Taylor provided safe haven and used his surrogate forces to fight the common enemy

111. As noted above, for a time after the initial invasion Taylor gave Sankoh safe haven in Liberia from which he could move to various locations to visit with and bring materiel to the fighters in Sierra Leone. For a time, Sankoh considered Gbarnga his base,<sup>403</sup> and Taylor provided him with a house in an area called “*Far East*.”<sup>404</sup> Taylor also allowed Sankoh to use Gbarnga as a transit point for RUF personnel, facilitating the flow of fighters from their ousted positions in Pujehun District, via Bomi Hills, on to NPFL/RUF positions in Kailahun District. Sankoh had RUF staff at his lodging in Gbarnga who routinely interacted with Taylor’s subordinates there.<sup>405</sup> When ULIMO managed to completely cut off the border between Sierra Leone and Liberia, Taylor proposed to give Sankoh safe haven in his territory, proposing to send a helicopter to airlift him out of Sierra Leone.<sup>406</sup>

112. During the early fighting in Sierra Leone, Taylor also gave safe haven to the NPFL/RUF fighters, who were sometimes forced to retreat into Liberia, giving them the opportunity to regroup, reorganize, rest, receive medical treatment, re-provision, and receive additional training in Taylor territory. In the early years, NPFL and RUF fighters often found they had to retreat from Sierra Leone back into Taylor’s areas in

<sup>402</sup> TF1-274, TT, 1 December 2008, pp. 21300, 21309-14, 21316-17, 21335-41: the witness was one of those trained in radio communications at Bomi Hills; TF1-045, TT, 12 November 2008, pp. 20068, 20078-82; [REDACTED]; TF1-337, TT, 6 March 2008, pp. 5444-45.

<sup>403</sup> TF1-567, TT, 2 July 2008, p. 12839; [REDACTED]; [REDACTED].

<sup>404</sup> TF1-567, TT, 2 July 2008, pp. 12840, 12856; [REDACTED]; Accused, TT, 10 September 2009, p. 28679 and 14 September 2009, pp. 28700-01.

<sup>405</sup> TF1-567, TT, 2 July 2008, p. 12838-39; [REDACTED].

<sup>406</sup> TF1-274, TT, 1 December 2008, p. 21394; TF1-360, TT, 4 February 2008, p. 3051: “1994 in Kailahun they attacked us and moved us from out of all the towns in Kailahun and then we jumped in the bushes. At that time the RUF had arranged, and even before that Mr. Taylor told Mosquito that he should try by all possible means to move Foday Sankoh out of Sierra Leone and bring him into Liberia and Sankoh said “No, if I decide to move now and leave my men behind they will not be able to do anything good. They will start fighting amongst themselves.”

Liberia. Each time they retreated to Taylor's territory, he provided them with vitally needed assistance and protection. By providing them with this safe haven, Taylor ensured the continued survival of the RUF, gave them time to regroup and the ability to devise a way to go back into Sierra Leone. While protecting them in this NPFL safe haven, Taylor gave them, among other things, medical support, food, reinforcements and ammunition. Taylor's NPFL equipped RUF fighters in Liberia.<sup>407</sup> In 1992, for example, RUF were pushed into Liberia and went to Bomi Hills where they were given medical care and re-provisioning, among other things. Taylor was informed of the retreat to Bomi Hills by radio and relayed this information to Sankoh. Taylor then sent re-supply for them via truck; Sankoh went there via another route. These RUF, including Sam Bockarie, eventually made their way to Kailahun District via Gbarnga.<sup>408</sup>

113. Taylor gave RUF fighters safe passage throughout his controlled territory in Liberia. For example, large numbers of RUF fighters pushed out of Sierra Leone moved to locations such as Tiene, and from there through various villages in Grand Cape Mount County and eventually to Tubmanburg, Bomi Hills, Liberia. These fighters were allowed to pass through NPFL checkpoints en route; they had "official permission" because they were RUF and were on their way to see Foday Sankoh. Fighters from Bomi Hills who moved on to Gbarnga were also allowed to pass through NPFL checkpoints along the route, using only an RUF identification card as identification.<sup>409</sup>
114. Taylor visited the fighters at Bomi Hills. The Accused addressed the assembled fighters and provided them with encouragement and moral support. Taylor said they were all fighting for the same freedom, gave them "courageous words," and told them that they "should not fear." Taylor said he had come with "armament, materials and all other things" and that they "were going to have to get ready and go back to Sierra

<sup>407</sup> TF1-567, TT, 2 July 2008, p. 12844, 12851-53; TF1-045, TT, 12 November 2008, pp. 20077-82; TF1-571, TT, 8 May 2008, pp. 9332-35; TF1-337, TT, 4 March 2008, p. 5252; TF1-367, TT, 20 August 2008, pp. 14104-05; TF1-571, TT, 8 May 2008, pp. 9332-33; TF1-275, TT, 20 February 2008, p. 4387: "Mr. Sankoh departed Sierra Leone after the communication between himself and Mr. Taylor and he traveled to Gbarnga, and he came back with some operators who were also RUF, but had been pushed back from Pujehun and then they went through Liberia and they were based in Gbarnga and they came back to Sierra Leone"; [REDACTED]; TF1-274, TT, 1 December 2008, p. 21307 - 13, 21335-41.

<sup>408</sup> TF1-567, TT, 2 July 2008, p. 12842-43, 12855; DCT-102, TT, 1 November 2010, pp. 48369-48370.

<sup>409</sup> [REDACTED]

[REDACTED]; TF1-567, TT, 2 July 2008, p. 12838-12839.

Leone.” Taylor addressed the fighters initially then Sankoh spoke to them, buttressing what his friend Taylor had said.<sup>410</sup>

Taylor continued his role as chief, father, godfather throughout the conflict in Sierra Leone

115. After the initial invasion of Sierra Leone and early years of fighting there, Taylor continued to nurture, direct and protect the RUF, and later the AFRC/RUF alliance in a myriad of vital ways. The subsections that follow discuss that ongoing criminal participation, involvement, concerted action with and command over the RUF, AFRC/RUF alliance by: providing strategic instruction, direction, guidance, maintaining an effective RUF, AFRC/RUF alliance, providing vital arms and ammunition, manpower, creating and maintaining a linked communications network, providing safe haven, other support, and exercise of strategic command over these forces, either individually or in concert with or through the on the ground leaders of his proxy armies in Sierra Leone.

Taylor’s admissions regarding participation, involvement, concerted action with RUF

116. Charles Taylor admitted his involvement, participation, concerted action with Foday Sankoh and the RUF between the period August 1991 to May 1992. Taylor admitted that Sankoh did travel to Gbarnga and that he provided Sankoh with lodging there, as well as a vehicle, arms and ammunition including AK rounds and RPG bombs, and access to NPFL radio communications.<sup>411</sup> Contradicting his testimony that he, Taylor, broke off all ties with RUF in May 1992, the Accused also told the Court that Sankoh came to Gbarnga in maybe early June 1992.<sup>412</sup> Taylor also agreed, then accepted, then said he was sure that he had received Exhibit P-65, the 5 May 1992 letter from Sankoh. The letter captures the wide variety of participation, involvement, and concerted action between the Accused and the RUF as of that time.<sup>413</sup> In the letter, Sankoh thanks Taylor for the “brotherly help” Taylor is providing; notes the need for Sankoh and

<sup>410</sup> TF1-571, TT, 8 May 2008, pp. 9331-34: the witness testified that when he was stationed with RUF at Wai, Pujehun District for approximately one month, they were attacked from all fronts and he and the other RUF retreated to Liberia, passing first through Tieni and then to Bomi Hills; TF1-337, TT, 4 March 2008, pp. 5251-5252: stating they were attacked at Tieni and then left for Bomi Hills where Sankoh and Taylor addressed them.

<sup>411</sup> Accused, TT, 20 July 2009, pp. 24795-97, 24806-08, 24811, 24822, 24826, 24834 -35, 24838, TT, 15 September 2009, pp. 28939-49, 28951.

<sup>412</sup> Accused, TT, 15 September 2009, pp. 28949-52.

<sup>413</sup> Accused, TT, 20 July 2009, pp. 24827, 24829, TT, 15 September 2009, p. 28949: Accused agrees that in May he received a letter from Sankoh; Exh. P-65. See also [REDACTED]

Taylor to sit and discuss and “address ourselves” to issues relating to current developments in Sierra Leone and the deployment of ECOMOG to the border; states his appreciation to the Accused for the ammunition Sankoh is to receive from Taylor that day; notes the radio message Sankoh had “just received” from “General Dopoe” (Menkarzon) regarding the operation being carried out in Sierra Leone to capture Daru Barracks; requests additional ammunition to accomplish that operation, while awaiting the “long term supply” promised by Taylor; and finally notes that Sankoh’s jeep is being repaired and requests that Taylor provide him with a pickup truck.<sup>414</sup>

117. Taylor told the Court that he was in a position to provide the RUF with more supplies than he admitted to giving them.<sup>415</sup> Of course that was true, and the credible evidence makes clear that the Accused provided his surrogate force, the RUF, with a qualitatively larger amount of arms and ammunition and other supplies over a longer period of time than he admitted under oath. Taylor also admitted that he had sent his NPFL into Sierra Leone during this period, including Dopoe Menkarzon, Sam Tuah, General Francis Menwon, and Charles Timba aka Timber aka Timba, whom Taylor admitted was a Mano and NPFL.<sup>416</sup> The Accused further admitted that Oliver Varney was operating in the Cape Mount area on the Liberian side<sup>417</sup> and that it was “possible” that ULIMO pursued “someone” back into Liberia from Sierra Leone around November 1991.<sup>418</sup> The “someone” was, of course, NPFL and RUF fighters who had been engaged in attacks in Pujehun District.
118. Those admissions corroborate Prosecution evidence, but Taylor’s participation was much more extensive and over a much longer period of time than he was willing to admit. As discussed below, the evidence makes clear that Taylor continued to provide direction, control, guidance, critical materiel, personnel and other support to the RUF, and later to the AFRC/RUF, after his successful initial invasion into Sierra Leone.

<sup>414</sup> Exh. P-65.

<sup>415</sup> Accused, TT, 15 September 2009, pp. 28945.

<sup>416</sup> Accused, TT, 20 July 2009, pp. 24838-39, TT, 15 September 2009, pp. 28936-37, 28949-51, TT, 16 September 2009, pp. 29060-62; see also [REDACTED]

<sup>417</sup> Accused, TT, 15 September 2009, pp. 28962-63.

<sup>418</sup> Accused, TT, 22 September 2009, pp. 29291.



## II.B. STRATEGIC INSTRUCTION, DIRECTION, GUIDANCE

119. After the initial invasion and early years of fighting and throughout the conflict in Sierra Leone, Taylor continued to provide the leaders of the RUF, AFRC/RUF with strategic instruction, direction and guidance in relation to a range of political, military and other matters. Multiple witnesses told the court about this aspect of Taylor's criminal participation, involvement and concerted action with the RUF, AFRC/RUF. These witnesses corroborate each other in significant detail as to this continuing role of the Accused. They sometimes characterized this aspect of Taylor's role as giving "advice." Advice which is invariably followed, however, is, in truth, instruction, guidance and direction, and should be treated as such.

### During Period Access to the Border Restricted

120. ULIMO succeeded in severely restricting access to the Sierra Leone/Liberia border at different times in different areas. Access was first restricted at the border area of Pujehun District and Grand Cape Mount County around the end of 1992, beginning of 1993.<sup>419</sup> Access to the border area of Kailahun District and Lofa County was restricted later, around the end of 1993, beginning of 1994, although ULIMO were still being attacked on both sides by NPFL, Lofa Defence Force and by RUF coming from Sierra Leone.<sup>420</sup> Even though access was restricted, numerous witnesses gave evidence to the effect that thereafter, the Accused continued to play a vital role in the life of the RUF through his instruction, direction and guidance to Sankoh, which Sankoh invariably followed. At this time, radio communications became the primary means by which Taylor provided this critical instruction, direction and guidance.<sup>421</sup> During these frequent radio communications, Sankoh would brief Taylor about such matters as security operations, RUF attacks, the enemy's advance, the status of operations, areas the RUF controlled in Sierra Leone, and the defensive position of the RUF. Sankoh would also inform Taylor if the RUF had captured any heavy weapons.<sup>422</sup> Sankoh was always "advised" by Taylor. "At any time Mr Sankoh received message from Mr

<sup>419</sup> TF1-406, TT, 14 January 2008, p. 1196; TF1-045, TT, 12 November 2008, pp. 20074, 14 November 2008, p. 20278.

<sup>420</sup> TF1-406, TT, 9 January 2008, p. 805; 10 January 2008, p. 976-977; 14 January 2008, pp. 1196-97; [REDACTED]; TF1-388, TT, 9 July 2008, pp. 13289-92.

<sup>421</sup> TF1-516, TT, 7 April 2008, pp. 6860; [REDACTED]; TF1-367, TT, 20 August 2008, pp. 14105-07; TF1-567, TT, 2 July 2008, pp. 12839, 12843.

<sup>422</sup> TF1-045, TT, 12 November 2008, pp. 20109-10 and 13 November 2008, pp. 20164-65; TF1-360, TT, 4 February 2008, pp. 3051-55; TF1-567, TT, 2 July 2008, p. 12869-70.

Taylor we will undertake a serious attack. The RUF will attack the government troops.”<sup>423</sup> Examples of the strategic instruction, direction and guidance Taylor gave to Sankoh are set out below.

*Take to the jungle, guerrilla warfare*

121. Deprived of its main source of arms, ammunition and other supplies when ULIMO cut off the supply route from Taylor through Liberia, the RUF came under heavy attack from Sierra Leone government forces and lost territory. Eventually the RUF was pushed into a small strip of land in Kailahun District on the border with Liberia.<sup>424</sup> When Sankoh spoke to Taylor about this situation, Taylor first tried to get Sankoh to come to Liberia. However, Sankoh felt he could not leave his men, so Taylor told Sankoh to take to the jungle and change tactics from semi-conventional fighting to guerrilla warfare, i.e. to stop attacking but rather set ambushes, avoid towns and retreat to the jungle. The RUF headquarters was established at Zogoda, Kenema District, in 1994.<sup>425</sup> Sankoh followed Taylor’s “advice,” avoiding towns and eventually opening various “jungles” (i.e. bases in the bush), throughout the country, establishing the RUF headquarters at Zogoda, Kenema District, in 1994. Once the jungles were established, the RUF launched ambushes instead of frontal attacks, secured materials and was thus able to begin attacks again.<sup>426</sup>

*Attack a major place*

122. Taylor also gave Sankoh guidance to attack a major place and “terrorise the area, starting with the civilians, the towns and to capture if possible the white employees who were there,” to “raise the concern of the international community” and to force the government and international community to agree to a peace deal.<sup>427</sup> Sankoh followed this guidance and explained in more detail to his troops how the attack should be launched: “...we needed to do something which would be of concern to the Sierra Leonean government and international community. ... Sierra Rutile was one of the

<sup>423</sup> TF1-360, TT, 4 February 2008, p. 3053.

<sup>424</sup> TF1-360, TT, 4 February 2008, pp. 3050-51; [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12867-70; [REDACTED]. See also [REDACTED].

<sup>425</sup> TF1-567, TT, 2 July 2008, pp. 12874-75; TF1-275, TT, 20 February 2008, pp. 4404-05; TF1-584, TT, 17 June 2008, p. 12071; [REDACTED].

<sup>426</sup> TF1-360, TT, 4 February 2008, pp. 3049-51; [REDACTED]; TF1-516, TT, 8 April 2008, pp. 6834-35; TF1-532, TT, 3 April 2008, pp. 6618-22; [REDACTED].

<sup>427</sup> TF1-045, TT, 12 November 2008, pp. 20097-99.

companies on which the Sierra Leonean people relied ... we were to stop the work.” Sankoh said that civilians whom the fighters saw were to be killed. Just as would be ordered later in relation to Kono, Freetown and other places, Sankoh said that the entire area should be burned. Sankoh reiterated they should raise the concern of the international community.<sup>428</sup>

123. The fighters who participated in this operation followed the instructions and left burned villages and dead civilians in their wake as they moved to Sierra Rutile and its environs. These crimes were reported back to Sankoh.<sup>429</sup> During the attack on Sierra Rutile and environs, the RUF also abducted staff and looted a substantial sum of money from the company. This result was also reported to Foday Sankoh, who in turn reported it to Taylor via NPFL radio stations. Taylor replied that Sankoh should save the money for such things as ammunition, food and drugs for the fighters, and “to establish diplomatic relations with the outside world.”<sup>430</sup>
124. It is no coincidence that two persons associated with the Accused—Dr. Addai Sebo and DCT-299—were the two individuals instrumental in bringing out the hostages taken at Sierra Rutile. Dr. Sebo was the Accused’s publicist who first met Sankoh in NPFL-held Gbarnga in 1990.<sup>431</sup> DCT-299 was a business woman who was closely associated with Taylor and the NPFL, was allowed to travel freely within NPFL territory, and was allowed or ordered to go to Danane, an NPFL stronghold, from where she travelled into Guinea and assisted the RUF. Dr. Sebo did not just happen upon DCT-299 to assist him in the release of the hostages—the only reasonable explanation is that it was the Accused who arranged or facilitated the operation by these two individuals to achieve the overall objective he had given to Sankoh.

*Taylor sponsored RUF external delegation at NPFL stronghold Danane*

125. As Taylor had advised,<sup>432</sup> at the end of 1994, Sankoh sent an RUF group referred to as the external delegation through Guinea to the Ivory Coast to start negotiations<sup>433</sup>—

<sup>428</sup> TF1-045, TT, 12 November 2008, pp. 20098-99; TF1-360, TT, 4 February 2008, pp. 3053-58.

<sup>429</sup> TF1-045, TT, 12 November 2008, pp. 20100-01.

<sup>430</sup> TF1-360, TT, 4 February 2008, pp. 3052-56. Witness states the following: “from the log books, for example, when a place like Sierra Rutile, because Sankoh told us that he wanted to look for a major place that he would attack according to Mr. Taylor’s advice,” “so in his conversation with Taylor he said, ‘you should either attack the major places like Kono or Sierra Rutile.’ As a result he chose Sierra Rutile”; see also TF1-045, TT, 14 November 2008, pp. 20301-02; stating that the attack on Sierra Rutile was ordered directly by Foday Sankoh.

<sup>431</sup> [REDACTED]; Exh. P-525, p. 12; Exh. P-526, p. 202. See also Exh. P-527, p. 86.

<sup>432</sup> TF1-360, TT, 4 February 2008, pp. 3054-56.

through the assistance once again of DCT-299, the Sierra Leonean who benefited from Taylor's regime. It is no coincidence that DCT-299 brought the delegation to the NPFL stronghold of Danane, or that the delegation set up operation in Danane under the watchful and helpful eye of Taylor's long-time subordinate and Protocol Officer, Musa Cisse, who had a home with NPFL communications equipment and operators there.<sup>434</sup> Nor was it a coincidence that Musa Cisse introduced the external delegation to the Ivorian authorities in the area and facilitated their acceptance by those authorities and their access to the required official documents.<sup>435</sup> The members of the external delegation communicated with Sankoh and their diplomatic contacts through the radio set of Musa Cisse until the Abidjan peace talks began and the Ivorian government gave the RUF permission to have its own radio capabilities.<sup>436</sup>

*Taylor invited and sponsored RUF members trips to Gbarnga and Ghana*

126. Taylor also used the presence of RUF members, including Sankoh, in the Ivory Coast—a country historically friendly to him—to his advantage and to the advantage of Sankoh and the RUF. It was easy for Taylor, his NPFL subordinates and associates, and the RUF to travel back and forth from Ivory Coast across Taylor-controlled territory in Liberia. Taylor arranged for just that, using his NPFL subordinate's radio in Danane to summon members of the external delegation in August 1995, arranging for and providing them with the means to travel across his territory to meet with him in Gbarnga.<sup>437</sup> These meetings in Gbarnga enabled Taylor to get a first hand “eyes and ears” accounting of what was happening in Ivory Coast and with Sankoh.
127. The Accused travelled back to Ivory Coast with these RUF members, then took them with him to Accra.<sup>438</sup> These trips allowed Taylor to introduce them to contacts who could facilitate earnest deals for arms, ammunition and other supplies for the RUF. Contrary to the testimony of DCT-306, Sankoh, who, like Taylor, had “eyes and ears”

<sup>433</sup> [REDACTED]; TF1-360, TT, 4 February 2008, pp. 3054-56.

<sup>434</sup> [REDACTED]; TF1-045, 12 November 2008, p. 20125; DCT-306, TT, 14 April 2010, p. 38950; DCT-292, TT, 3 June 2010, pp. 42012-13; Accused, TT, 23 September 2009, pp. 29528-31.

<sup>435</sup> [REDACTED]; DCT-306, TT, 14 April 2010, p. 38950.

<sup>436</sup> [REDACTED]; TF1-045, 12 November 2008, p. 20125; DCT-306, TT, 14 April 2010, p. 38950; DCT-292, TT, 3 June 2010, p. 42045.

<sup>437</sup> DCT-306, TT, 14 April 2010, pp. 38959-60.

<sup>438</sup> DCT-306, TT, 16 April 2010, pp. 39536-37.

strategically located to keep him aware of what his subordinates were doing,<sup>439</sup> would have known of these trips and sanctioned them, or they could not have occurred. Similarly, the government of the Ivory Coast would very likely have known that Taylor and members of the external delegation, residing at sufferance in its country, were travelling into and out of its country, and would have either permitted or acquiesced to these movements. The government would also very likely have discussed these movements with Sankoh as the leader of the RUF and of the delegation.

*Taylor guided RUF Propaganda effort - Footpaths to Democracy – Created by Taylor Publicist Dr Sebo*

128. In about December 1995, the RUF released “Footpaths to Democracy,”<sup>440</sup> prepared mainly by Taylor’s publicist and friend Dr Sebo,<sup>441</sup> using the same type of reality-bending propaganda that Taylor used in his public pronouncements. Taylor ensured he was present in Abidjan at the time of the official launch of the RUF propaganda booklet. Taylor used Dr. Sebo to convey to members of the external delegation that he wanted to see them and they complied with his request, whereupon Taylor gave them 10 million CFA. Members of the external delegation used this money in part to travel to Europe, including Belgium and France,<sup>442</sup> a country that also provided support to Taylor.
129. It defies belief that Sankoh would not have known of Taylor’s presence and interaction with the delegation, or that Sankoh was not involved in it or sanctioned it. The government of Ivory Coast would have no doubt remarked on Taylor’s presence to Sankoh. Sankoh was no doubt aware of Taylor’s presence and the launch gave Taylor and Sankoh the opportunity to meet face to face to discuss the situation facing the RUF, the best way forward, and for Taylor to gauge first hand Sankoh’s commitment to using funds for arms and ammunition *vice* personal use. It was after this meeting in Abidjan that Sankoh wrote his letter complaining that Taylor’s long time ally, Burkina Faso, represented by Diendere, was not helping him. As discussed below, it is likely this

<sup>439</sup> Accused, TT, 15 July 2009, p. 24569 and 20 July 2009, p. 24759 and 16 July 2009, p. 24692 and 18 November 2009, p. 32035; [REDACTED]; [REDACTED];

[REDACTED]; TF1-567, TT, 2 July 2008, pp. 12833-34 and 7 July 2008, pp. 13061-64.

<sup>440</sup> [REDACTED]; DCT-306, TT, 14 April 2010, p. 38967-69 and 20 April 2010, pp. 39438-40.

<sup>441</sup> Exh. P-525, p. 12.

<sup>442</sup> DCT-306, TT, 14 April 2010, pp. 38995, 38999-39001, 39019, 39033, 39048 and 20 April 2010, pp. 39438-40, 39464, 39467.

failure to assist was because Taylor was not satisfied that Sankoh would use money given him to obtain materiel.

During 1996 before signing of Abidjan peace agreement

*Operation Stop Elections*

130. As noted above, consistent with Taylor's instruction, direction and guidance, Sankoh implemented a plan to take mostly foreigners as hostages and to use these hostages as a means of gaining international attention. The success of this plan and its consequent terror operation against civilians, combined with his awareness that the RUF would not fare well in an election, led Sankoh to implement another RUF campaign of terror. This campaign, Operation Stop Elections, was aimed at preventing civilians from voting in the early 1996 elections.<sup>443</sup>
131. Sankoh explained that the operation's aim was to disturb the elections held by the government and to "teach them the lesson" as the "Sierra Leonean government and the international community" had refused to "let there be peace before the elections" and did not agree to his demands.<sup>444</sup> For this operation, it was decided to amputate civilians' hands. As Sankoh explained: the civilians "would be afraid and they would not go out to vote and so the elections would not take place." Sankoh made clear that it also "would raise some concern to the international community and they would turn to peace before elections."<sup>445</sup>
132. Although this plan was not devised by the Accused, the RUF leadership sought Taylor's approval and guidance before going forward with the plan. Sankoh communicated with Taylor and conveyed to him his plan to disrupt the elections. Sankoh told the Accused that the offensive would make people fearful, that anybody who was captured would be amputated and that they would ask people to "take their hands off" the election. In response to this information, Taylor indicated that the plan was not a bad one. Sankoh

<sup>443</sup> [REDACTED]; TF1-375, TT, 23 June 2008, pp. 12482-83; TF1-584, TT, 18 June 2008, pp. 12119-23; TF1-532, TT, 10 March 2008, pp. 5688-98; TF1-045, TT, 12 November 2008, pp. 20104-08; [REDACTED]

<sup>444</sup> TF1-045, TT, 12 November 2008, p. 20104.

<sup>445</sup> TF1-045, TT, 12 November 2008, pp. 20105-06; TF1-584, TT, 18 June 2008, pp. 12119-23; TF1-532, TT, 10 March 2008, pp. 5688-98.

then told his commanders that he had explained this plan to Taylor who had said that it was not a bad plan at all.<sup>446</sup>

133. Morris Kallon was one of the commanders for this operation<sup>447</sup> and the main slogan became “take off his hands from the elections.”<sup>448</sup> In one instance, over 150 armed men<sup>449</sup> carried out the operation of terror where civilians were killed and hands of civilians were amputated. Kallon reported to Sankoh: “The instruction you had given us to attack the town, we killed civilians and we removed some of their hands from the election. Although the election went on,” he said, “we did exactly what you had told us to do,” and people “would hear about it over the BBC what we did in Kenema.”<sup>450</sup> The attack was carried out on other target areas as well, inflicting terror on civilians through amputations and carving “RUF” on the chests of civilians.<sup>451</sup>

*Build airstrip*

134. Taylor sent a message to Sankoh telling him to choose a particular area where they should construct an airstrip. After Sankoh received that message, he appointed Peter B. Vandí to be in charge of constructing the airfield in a village close to Buedu. He told Vandí to use civilians and to work day and night to complete the construction. Civilians did work there day and night.<sup>452</sup>

*Take part in Ivory Coast peace negotiations and use presence outside of Sierra Leone to obtain arms and ammunition*

135. The barbarous Operation Stop Election along with the earlier hostage taking did receive international attention and did play an important role in bringing the Sierra Leone

<sup>446</sup> TF1-532, TT, 10 March 2008, pp. 5689-98; TF1-045, TT, 12 November 2008, pp. 20104-08; TF1-584, TT, 18 June 2008, pp. 12119-23.

<sup>447</sup> TF1-045, TT, 12 November 2008, p. 20105.

<sup>448</sup> TF1-045, TT, 12 November 2008, pp. 20105-06 and 18 November 2008, pp. 20467-70: “According to what I heard it came from Foday Sankoh because it said they were to take off civilians’ hands from the elections and if he set an example like this, so if I used the word ‘amputation’ in English it is the same as take your hands off the elections.”

<sup>449</sup> TF1-045, TT, 18 November 2008, p. 20470.

<sup>450</sup> TF1-045, TT, 12 November 2008, pp. 20107-09 and 18 November 2008, p. 20476: The witness saw civilians with amputated hands and heard RUF soldiers talking about what they had done.

<sup>451</sup> TF1-532, TT, 10 March 2008, pp. 5697-98.

<sup>452</sup> TF1-360, TT, 4 February 2008, pp. 3058-59; [REDACTED] TF1-585, TT, 8 September 2008, p. 15662 and 16 September 2008, pp. 16293-94; TF1-276, TT, 23 January 2008, p. 1988; [REDACTED]; TF1-532, TT, 31 March 2008, pp. 6203-04; DCT-146, TT, 23 March 2010, pp. 37855-56. For evidence of forced labour in this construction, see for example TF1-360, TT, 5 February 2008, pp. 3105, 3116; TF1-532, TT, 31 March 2008, pp. 6203-04.

government and international community to the bargaining table in the Ivory Coast, a long-time ally and supporter of Charles Taylor.

136. Taylor convinced Sankoh to take part in the peace talks in Ivory Coast in 1996, to negotiate a deal which would allow the RUF to end its isolation in Sierra Leone, cut off from the NPFL-held territories in Liberia. Participating in the peace talks would also ensure RUF survival to continue its fight to control the people, territory, and pillage the resources of Sierra Leone. Before Sankoh's departure from Sierra Leone, it was relayed by radio that "Ebony" aka Charles Taylor wanted to speak with "Toyota" aka Foday Sankoh. Taylor told Sankoh to take advantage of attendance at the peace negotiations to "move outside" and get more "dancing materials," by which Taylor meant ammunition, and other combat-related material.<sup>453</sup> Using peace negotiations to allow him time to get materiel was a tactic with which Taylor was familiar, having engaged in such tactics throughout the conflict in Liberia. After receiving this guidance from Taylor, Sankoh joined his external delegation in Ivory Coast.
137. In Ivory Coast, Sankoh was in an excellent position to use Taylor's contacts to secure arms and ammunition, and he communicated with these contacts, including the Libyan delegation in Ghana. It appears that Sankoh used this occasion to benefit himself rather than to secure arms and ammunition for the RUF. [REDACTED]

[REDACTED]<sup>454</sup> Taylor, who had contact with members of Sankoh's external delegation, as discussed in paragraphs 126-129 above, and who had close friends and supporters in Libya and Burkina Faso, was no doubt aware that Sankoh was not using the money properly. It was no doubt for that reason that he did not give his approval to any of Sankoh's requests for support from Taylor's long time ally Burkina Faso, requests Sankoh supposedly made through Compaoré's subordinate Diendere, the man who later signed end user certificates to get arms and ammunition for Taylor.<sup>455</sup> Also, before

<sup>453</sup> TF1-516, TT, 8 April 2008, pp. 6868-69; the witness overheard the conversation between Taylor and Sankoh; TF1-275, TT, 21 February 2008, pp. 4487-89.

<sup>454</sup>

<sup>455</sup> Accused, TT, 28 January 2010, p. 34430; he knew Diendere; Exh. P-18, p. 00004406, para. 205.



allowing any assistance to be given to Sankoh in exchange for diamonds, Taylor wanted to ensure his individual or joint control over the diamonds now under RUF control. Taylor's failure to endorse Sankoh's requests was no doubt the reason that Burkina Faso failed to honour those requests, if indeed Sankoh made them at all.<sup>456</sup>

138. The result of Taylor's guidance to Sankoh to take part in the peace negotiations was the Abidjan Peace Agreement, which benefited Taylor's surrogate force, the RUF, and thereby Taylor's aims in Sierra Leone. The Agreement ensured the survival of the RUF. It provided for the withdrawal from Sierra Leone of the effective mercenary fighters from Executive Outcome,<sup>457</sup> thereby significantly weakening the ability of the elected government to withstand the coup of May 1997. The coup, of course, benefited Taylor and the RUF, giving the Junta forces control over the major diamond mining areas of Sierra Leone and over most of the people and territory.

#### During Junta

139. As discussed in Section II.C, during the Junta and throughout its existence, Taylor provided invaluable instruction, direction and guidance to the leaders of the AFRC/RUF alliance. This instruction, direction and guidance was often crucial to the continued survival of the alliance as a viable entity with the ability to continue carrying out the campaign of terror against the civilian population of Sierra Leone, encompassing all the crimes alleged in the Indictment.

#### After Intervention

140. After the Intervention which sent the AFRC/RUF forces fleeing from Freetown and other parts of Sierra Leone, Taylor issued crucial instructions, direction and guidance that saved the alliance. When ECOMOG drove the AFRC/RUF regime from power in mid-February 1998, the rebel movement was at risk of total collapse.<sup>458</sup> Taylor implemented a series of measures that prevented that collapse and enabled the AFRC/RUF to regroup into a formidable force that within a year would take control of most of Sierra Leone, including significant parts of the capital. Taylor summoned AFRC/RUF personnel to Liberia to meet with him to provide them assistance, instruction, advice and encouragement. In addition to the trips AFRC/RUF leaders took

<sup>456</sup> Exh. P-272, p. 00007798.

<sup>457</sup> Exh. D-87 p. 00004340: Article 12 providing for the withdrawal of the Executive Outcomes within five weeks after the deployment of the Neutral Monitoring Group.

<sup>458</sup> See for example Exh. P-67, p. 00009673.

to meet with Taylor, Taylor communicated with these leaders through satellite phone and radio and via couriers or liaisons. At these meetings, Taylor stressed the importance of maintaining physical control over Kono district and not to lose the diamonds fields.<sup>459</sup>

141. The alliance leaders, including Koroma and Bockarie, communicated the instructions and results of the meetings with Taylor to their subordinates during meetings and through satellite phone and radio communications.<sup>460</sup> For example, during one radio communication from Bockarie to Superman in Koidu Town, Bockarie mentioned obtaining arms and ammunition from Charles Taylor that was to be used to hold Kono and defend it against ECOMOG.<sup>461</sup>

*Summoned Bockarie to Monrovia and instructed Bockarie to continue fighting*

142. From the time Bockarie took over as the RUF commander on the ground in Sierra Leone until he left the RUF in mid-December 1999, Taylor provided crucial instruction, direction and guidance to him, which Bockarie invariably obeyed. These instructions, direction and guidance were imparted during Bockarie's many trips to Monrovia to meet with Taylor, via radio and satellite telephone communications with Taylor or his subordinates, and via Taylor's couriers and liaisons. Immediately after the Intervention, Taylor summoned Bockarie to Monrovia for instruction, direction and guidance. [REDACTED]

[REDACTED],<sup>462</sup> noted that Taylor summoned Bockarie "to report" "immediately" after the Intervention, "seriously briefed" Bockarie, told him to keep up the struggle until the Leader returns, and gave full assurance and promise to give his full support to the RUF.<sup>463</sup>

143. It is significant to note that there is no indication Bockarie or his travel companions received exemptions from the travel ban for any of the trips that Bockarie took to

<sup>459</sup> See for example TF1-360, TT, 5 February 2008, p. 3102; TF1-532, TT, 11 March 2008, pp. 5747-48; TF1-571, TT, 8 May 2008, pp. 9394-96.

<sup>460</sup> See also Section II.F.

<sup>461</sup> TF1-334, TT, 18 April 2008, pp. 8009-11 and 28 April 2008, pp. 8709-10: The witness was present with Superman at Dabundeh Street in Koidu town during this radio conversation.

<sup>462</sup> [REDACTED]; see also TF1-567, TT, 2 July 2008, p. 12903.

<sup>463</sup> Exh. P-67 pp. 9674-75. See also TF1-406, TT, 9 January 2008, pp. 825-29; TF1-274, TT, 2 December 2008, pp. 21441-48; [REDACTED]

Liberia in 1998,<sup>464</sup> unlike exemptions for trips by other members of the AFRC/RUF who were also on the travel ban.<sup>465</sup>

144. The Accused's testimony corroborates the Prosecution evidence regarding three of Bockarie's trips to Liberia, including the onward trip to Burkina Faso in late 1998. Taylor admitted that Bockarie came to Monrovia in September, October and November - November/December 1998.<sup>466</sup> Taylor also admitted that the November trip included an onward journey to Burkina Faso and a return through Monrovia.<sup>467</sup> Taylor further admitted that he met with Bockarie on these trips.<sup>468</sup>

*Instructed Bockarie to bring Johnny Paul Koroma to Buedu*

145. One such instruction from Taylor to Bockarie involved securing the diamonds that Johnny Paul Koroma brought with him when he fled Freetown. It is clear that Taylor was aware that Koroma was carrying diamonds and wanted those diamonds brought to him in Monrovia. Taylor had several satellite telephone conversations with Koroma during Koroma's flight from Freetown, Taylor giving direction to take Kono and discussing different modes of transport to bring Koroma to Taylor in Monrovia.<sup>469</sup> To achieve that purpose, "Benjamin" was instructed to "sneak" Koroma to Monrovia. Ultimately it was decided to secure the diamonds by bringing them under the control of Taylor's "son," Bockarie. To that end, Benjamin Yeaten relayed an instruction from Taylor to Bockarie that Koroma should be escorted to Buedu, as Koroma had "something for them."<sup>470</sup> Bockarie complied with this instruction, sending messages that Koroma come to Buedu.<sup>471</sup> Bockarie instructed his subordinates to make sure

<sup>464</sup> See for example, Exh. D-155; Exh. D-169, pp. 0012371-85; Exh. D-175.

<sup>465</sup> Exh. P-484, paras. 7-9 (exemptions granted in 1999); Exh. P-323, paras. 9 & 20 (exemptions & violations in 2000); Exh. P-485, paras. 10, 14 (exemptions granted in 2001).

<sup>466</sup> Accused, TT, 5 August 2009, pp. 26004-05, 26015-16, 26035-38.

<sup>467</sup> Accused, TT, 5 August 2009, pp. 26036-38, 26040.

<sup>468</sup> Accused, TT, 5 August 2009, pp. 26004-05, 26015-16, 26035-38, 26046-47.

<sup>469</sup> TF1-597, TT, 21 May 2008, pp. 10486-87, 10490-91, 10494-01.

<sup>470</sup> TF1-585, TT, 5 September 2008, pp. 15610-17; see also Exh. D-8, p. 00012959: regarding a meeting in Koindu with "Benjamin" after diamonds were taken from Koroma. At the meeting, "Bra" told "Benjamin" that they had something they wanted to present to "Big Brother" in Monrovia so he would help them. Benjamin advised against entering Liberia for security reasons as ECOMOG was hunting them. Benjamin then said "he was instructed to sneak with J.P. Koroma to Monrovia to avoid suspicion" & ERN 00012957: Benjamin "Legon" a "Liberia Security personnel"; [REDACTED]

<sup>471</sup> TF1-360, TT, 5 February 2008, pp. 3097-98, 3102; TF1-275, TT, 21 February 2008, p. 4500; Exh. D-9, p. 00009661: J P Koroma and family brought to Kailahun as was advised by Sankoh's "brother"; TF1-532, TT, 11 March 2008, pp. 5735-37; [REDACTED] See also TF1-597, TT, 21 May 2008, pp. 10504-05; TF1-532, TT, 11 March 2008, pp. 5735-37.

Koroma made it to Buedu, indicating that this was an instruction from Yeaten to Bockarie, as Koroma had “something” for them. Bockarie later sent a confirmation radio message to Superman confirming Koroma’s arrival in Buedu.<sup>472</sup> The “something” was indeed diamonds,<sup>473</sup> which were turned over to Taylor.<sup>474</sup>

146. It must be noted here that the events surrounding the taking of diamonds from Koroma and turning them over to Taylor were matters that Bockarie and the RUF delegation to Lomé treated with great delicacy. The RUF delegation chose not to provide these details to Sankoh in written form for “security” reasons, but rather to brief him orally.<sup>475</sup> The need for circumspection in relation to Taylor’s critical participation, involvement, and concerted action with the RUF and AFRC/RUF was no doubt emphasized to the RUF delegation while it was in Monrovia on its way to Lomé. Bockarie showed the same circumspection in his report to Sankoh.<sup>476</sup> Although willing to make written comments about assistance from ULIMO, Bockarie very carefully worded other portions of the report. For example, Bockarie mentioned only a “transit point,” not Monrovia, as Issa Sesay’s location when he “lost” diamonds, and wrote that he would not relay written information to Sankoh regarding Bockarie’s dealings with “sympathizers” who provided basic needs and facilitated the move to Kono and beyond.<sup>477</sup> And, of course, since Bockarie was in Monrovia with Sankoh, both of them had ample opportunity to meet with, and did meet with Taylor.<sup>478</sup> Therefore, there was no need for Bockarie to write about Taylor’s participation with the RUF and AFRC/RUF during Sankoh’s absence.

*Reorganized the alliance forces*

147. After the Intervention, Bockarie became the leader of the AFRC/RUF alliance. After Koroma consulted with Taylor, they decided to restructure the AFRC/RUF. Sam Bockarie was promoted to Defence Chief of Staff, giving him overall authority over AFRC and RUF forces; and other commanders such as Issa Sesay, Morris Kallon, Akim Turay and Leather Boot also received promotions. Bockarie himself explained in a

<sup>472</sup> TF1-360, TT, 5 February 2008, pp. 3104-05. See also TF1-334, TT, 17 April 2008, pp. 7940-41.

<sup>473</sup> See for example TF1-585, TT, 8 September 2008, pp. 15641-45.

<sup>474</sup> [REDACTED]; Exh. D-8, pp. 00012957, 00012959-60; TF1-567, TT, 2 July 2008, pp. 12902-03.

<sup>475</sup> Exh. D-8, p. 00012955.

<sup>476</sup> Exh. D-9.

<sup>477</sup> Exh. D-9, p. 00009663.

<sup>478</sup> Accused, TT, 25 November 2009, pp. 32441-42; TF1-567, TT, 4 July 2008, pp. 12980-81.

meeting that everyone should take instruction from him because “the chief,” Taylor, had promoted him to the rank of General.<sup>479</sup> Johnny Paul Koroma was present during the meeting when Bockarie explained this.<sup>480</sup> The alliance was restructured so that each AFRC commander was assigned a deputy from the RUF and each RUF commander was assigned a deputy from the AFRC.<sup>481</sup>

148. This decision that Bockarie would be in command of the allied forces, be it a direct promotion from Taylor, or a joint promotion decision between Taylor and Koroma, was implemented, and Taylor’s “son” became the recognized leader of the AFRC/RUF. When Koroma addressed a forum in Buedu he said that he had spoken to his brother, Taylor, and that he, Koroma, was going to travel and Bockarie was to be in overall command.<sup>482</sup> The evidence in the case makes clear that the overwhelming majority of both AFRC and RUF fighters accepted his command and, even in the light of some infighting, worked together, including before, during and after the multi-axis nationwide offensive that culminated in the attack on Freetown in January 1999.<sup>483</sup>

*Instructed Bockarie to prepare an airstrip*

149. After the Intervention, Taylor reiterated to Bockarie the need for a functional airstrip in AFRC/RUF territory. At a meeting convened by Bockarie, Daniel Tamba aka Jungle and General Ibrahim Bah spoke on behalf of Charles Taylor. Jungle said that the AFRC/RUF should try to construct the airstrip at Buedu as fast as possible. Bockarie then transmitted a message that the Accused said the AFRC/RUF should try and reorganize and re-prepare the airfield at Buedu.<sup>484</sup> Some 200-300 civilians were forced to work to prepare the airfield, working day and night.<sup>485</sup>

<sup>479</sup> TF1-360, TT, 5 February 2008, pp. 3109-10; TF1-571, TT, 8 May 2008, pp. 9392-96; TF1-516, TT, 8 April 2008, pp. 6854-56; TF1-577, TT, 4 June 2009, pp. 11004-05; TF1-585, TT, 5 September 2008, pp. 15617-22; TF1-532, TT, 11 March 2008, pp. 5741-42; [REDACTED]; Exh. P-62.

<sup>480</sup> TF1-571, TT, 8 May 2008, pp. 9392-96.

<sup>481</sup> TF1-532, TT, 11 March 2008, pp. 5740-43; DCT-146, TT, 23 March 2010, pp. 37890-91.

<sup>482</sup> See for example TF1-532, TT, 11 March 2008, pp. 5741-42.

<sup>483</sup> Exh. P-93; Exh. P-149; DCT-146, TT, 23 March 2010, pp. 37886-92 and 24 March 2010, pp. 37918-19 and 12 April 2010, pp. 38667-69; Joint AFRC and RUF forces in Kono District, Superman Ground; both AFRC and RUF represented in commander and deputy commander positions; joint AFRC and RUF forces attacked Masingbi, Makeni, Lunsar, joint forces in Waterloo.

<sup>484</sup> TF1-577, TT, 5 June 2008, pp. 11055-56, 11059-61; TF1-585, TT, 8 September 2008, p. 15662; TF1-568, TT, 12 September 2008, pp. 16147-48; TF1-360, TT, 5 February 2008, pp. 3105, 3167.

<sup>485</sup> TF1-360, TT, 5 February 2008, p. 3105. See also TF1-532, TT, 31 March 2008, pp. 6203-04; TF1-276, TT, 23 January 2008, pp. 1987-88.

*To secure control over Kono*

150. After the Intervention in mid-February 1998, Taylor immediately moved to focus the fleeing forces on securing the diamond mining areas. The Accused planned and/or was involved in a plan to take control and maintain control over Kono District. The plan was for the AFRC/RUF to hold Kono and thereafter move to the capital to restore AFRC/RUF control over Freetown. This plan resulted in AFRC/RUF offensives to capture and hold Koidu town and the surrounding area from February 1998 through June 1998. The unsuccessful Fitti Fatta mission followed in June 1998,<sup>486</sup> and finally the multi-axis offensive was implemented in late 1998, which culminated in the attack on Freetown on 6 January 1999. The Accused planned and/or was involved in this overall plan and the specific AFRC/RUF operations to ensure that the AFRC/RUF took and maintained control of Kono District and from there, to move on to regain control of Freetown.
151. Taylor set this plan in motion almost immediately after the Intervention when he learned that the AFRC/RUF were pulling out of Kono. While those forces were communicating with Buedu that they were about to pull out of Kono, the forces in Kono received a call from Base 1, Yeaten's radio station in Monrovia, asking why they were pulling out of Kono while other AFRC/RUF were still in Makeni and other areas toward Freetown.<sup>487</sup> Taylor wasted no time conveying his imperative that the AFRC/RUF should regain control over Kono. During the many satellite phone calls between Taylor and Koroma while Koroma was fleeing from Freetown, Taylor told Koroma to secure Kono. After these conversations with Taylor, Koroma gave orders to all the fighters and commanders to go and capture Kono.<sup>488</sup> After the initial attempt was unsuccessful, Koroma again communicated with Taylor. Taylor pressured Koroma, instructing him to try to capture Kono so that he, Taylor, would be able to send a helicopter from Monrovia to pick up Koroma and his family. The forces then captured Kono.<sup>489</sup>

<sup>486</sup> Exh. P-571: places attack on Koidu on 10 to 11 June 1998.

<sup>487</sup> TF1-516, TT, 8 April 2008, pp. 6852-53; see also TF1-334, TT, 17 April 2008, pp. 7932-33.

<sup>488</sup> TF1-597, TT, 21 May 2008, pp. 10486-87, 10490-91, 10494-01. See also TF1-334, TT, 17 April 2008, pp. 7940-43; DCT-172, TT, 18 August 2010, pp. 46579-81: In Makeni, JPK appointed Superman with a team to advance to capture Kono.

<sup>489</sup> TF1-597, TT, 21 May 2008, pp. 10496-97.

*To hold Kono*

152. Once Kono was again under the control of the AFRC/RUF, the emphasis moved to maintaining that control. Consistent with the earlier instruction from Taylor, Koroma held a meeting after the capture of Koidu Town and again talked about the necessity to hold the ground in Kono. Koroma said to make Kono a “no go” area for civilians and that he was going to Liberia to meet Taylor to arrange logistics—arms, ammunition, food and other things—to support the AFRC/RUF, so they could hold the ground in Kono.<sup>490</sup>
153. Taylor also instructed Bockarie to hold Kono and as long as they had Kono, they would be able to take over the rest of Sierra Leone because Kono was one of the prominent diamond mining areas in Sierra Leone. Bockarie made it clear that securing Kono would enable the RUF to get materiel and other supplies from Taylor. Bockarie passed this instruction on by radio to Issa Sesay and Superman as soon as they reached Koidu Town and to all the bases, repeating the message in subsequent communications.<sup>491</sup> The fighters were told to make the area “fearsome”—which meant to burn down houses, destroy property, construct road blockades and kill—and resulted in the burning down of Koidu Town.<sup>492</sup>
154. The instruction to hold Kono was reiterated at a secret meeting where the Accused, through his representatives Ibrahim Bah and Daniel Tamba aka Jungle, stated that Taylor recognized the AFRC/RUF relationship and directed that the AFRC/RUF should not worry about being pushed out of Freetown. Rather, the AFRC/RUF should work hand in glove and try to take hold of Kono District because it was from Kono that the AFRC/RUF could obtain their resources, namely diamonds. Bah told the fighters that he was part of the Liberian government, working under Taylor.<sup>493</sup>

<sup>490</sup> TF1-334, TT, 17 April 2008, pp. 7946-52. See also TF1-597, TT, 21 May 2008, pp. 10501-02: a combined force was to hold the ground in Kono.

<sup>491</sup> TF1-360, TT, 4 February 2008, pp. 3045-47 and 5 February 2008, pp. 3102-04, 3135, 3147. See also TF1-532, TT, 11 March 2008, p. 5745; [REDACTED].

<sup>492</sup> TF1-360, TT, 5 February 2008, pp. 3102-04.

<sup>493</sup> TF1-577, TT, 5 June 2008, pp. 11055-56, 11059-61: Superman, Issa Sesay were among those at the meeting; TF1-568, TT, 12 September 2008, pp. 16147-49.

*To retake Kono*

155. The AFRC/RUF was unable to maintain control over Koidu Town and was pushed out, establishing positions or camps in Kono District. Soon afterward, Taylor ordered through his own Liberian subordinates and through Sam Bockarie, to retake the area. Thereafter, Taylor continually issued directives and encouragement to Bockarie concerning the urgency of recapturing Kono district.<sup>494</sup> A few weeks after the retreat from Koidu Town and after orders had been passed to burn Koidu Town, Bockarie contacted Superman by radio, instructing him to go to Moa River to receive some Liberians. Eight (8) Liberians came to Superman Ground, including Osebion Demy<sup>495</sup> aka Osibio Dembi<sup>496</sup> aka Ocebion Dehme.<sup>497</sup> The Liberians were present at both an open forum attended by many senior AFRC/RUF officers, and a smaller meeting which Superman, Rambo and AFRC Honourable Adams also attended. At both meetings, the Liberians explained that the AFRC/RUF should retake Koidu Town/Kono so as to be able to carry out diamond mining operations. At the smaller meeting, the Liberians emphasized that they needed to retake Kono and get mining equipment to Kono in order to proceed more quickly with the war. The Liberians also said they had brought their own medicine men to put protection marks on the fighters and that during the NPFL time under Taylor, they had done the same to NPFL fighters. These markings were later put on the fighters.<sup>498</sup>
156. In addition, Bockarie travelled to see Taylor to obtain arms and ammunition. On his return, Bockarie showed his subordinates the large amount of arms and ammunition, including AK-47s, GPMGs, RPGs and LMGs. These arms and ammunition were to be used for the Fitti Fatta mission. Bockarie assured his men that more arms and ammunition would come for the 'big mission' to take areas all the way to Freetown, of which Fitti Fatta was to be only the beginning.<sup>499</sup> Bockarie announced that the plan and

<sup>494</sup> See for example [REDACTED]; TF1-577, TT, 5 June 2008, pp. 11059-61; TF1-597, TT, 21 May 2008, p. 10494; Instruction also issued to Johnny Paul Koroma; TF1-360, TT, 5 February 2008, p. 3168; TF1-334, TT, 28 April 2008, pp. 8709-10.

<sup>495</sup> TF1-375, TT, 23 June 2008, pp. 12523-28: Osibion Demy was ranked 59<sup>th</sup> in the SSS, on a scale beginning with 50, Benjamin Yeaten.

<sup>496</sup> Accused, TT, 24 August 2009, p. 27427.

<sup>497</sup> TF1-406, TT, 9 January 2008, p. 816.

<sup>498</sup> TF1-375, TT, 23 June 2008, pp. 12521-31: although the witness was not present at the smaller meeting, Superman briefed the witness, Babay, and Crazy (Superman's other bodyguards) about what had been discussed at the meeting. The witness got to know Osibion Demy later when the witness was in Liberia; TF1-360, TT, 5 February 2008, pp. 3164-66: herbalists sent by Taylor to mark the fighters for the mission. See para. 306 below for more detail.

<sup>499</sup> TF1-360, TT, 5 February 2008, pp. 3105, 3160-65. See also TF1-532, TT, 11 March 2008, p. 5748.



its implementation were devised by Taylor.<sup>500</sup> SAJ Musa, Superman and many others were to participate.<sup>501</sup> The attack would be a multi-axis operation from the north via Koinadugu and Bombali, from the northeast via Kono District, and from the east via Kenema District. The offensive would commence with the Fitti Fatta mission to retake Kono and would continue on to Kabala, Makeni, and ultimately Freetown, with all groups converging on Masiaka before moving on to Waterloo. The overarching focus was control of Freetown and thus the country—after all, in order to control Sierra Leone, the AFRC/RUF first had to control Freetown.<sup>502</sup> Similar to the strategy employed by Taylor in Liberia, this multi-axis attack would engage the ECOMOG forces on several fronts away from Freetown, thereby weakening ECOMOG's ability to focus on Freetown. However, the initial attacks would aim to first secure the “bread basket,” Kono District.<sup>503</sup>

157. Civilians were forced to carry Taylor's materiel to the commanders for use in the operation. Taylor also sent medical support for the mission to recapture Kono. Because of the abundance of materiel and other support for the operation, it was called Fitti Fatta, meaning an abundance of everything. After the materiel was distributed and the herbalists had put protection marks on the fighters, the Fitti Fatta operation was launched.<sup>504</sup> Despite this abundant amount of materiel and other support the Accused provided, the mission, which took place in June 1998,<sup>505</sup> was unsuccessful<sup>506</sup> and many AFRC/RUF fighters were killed or wounded. Wounded RUF were taken to Liberia for medical treatment.<sup>507</sup>

<sup>500</sup> TF1-360, TT, 5 February 2008, pp. 3163-65; TF1-571, TT, 8 May 2008, pp. 9396-97.

<sup>501</sup> TF1-567, TT, 2 July 2008, pp. 12907-08; TF1-360, TT, 5 February 2008, pp. 3161-71; TF1-375, TT, 23 June 2008, pp. 12542-44; TF1-571, TT, 8 May 2008, pp. 9396-97.

<sup>502</sup> DCT-068, TT, 12 March 2010, p. 37204; DCT-172, TT, 4 August 2010, p. 45433.

<sup>503</sup> TF1-571, TT, 9 May 2008, pp. 9423-25, 9460; [REDACTED]

[REDACTED]; TF1-360, TT, 5 February 2008, pp. 3163-67; TF1-275, TT, 21 February 2008, p. 4518.

<sup>504</sup> See for example TF1-360, TT, 5 February 2008, pp. 3160-63, 3169-72; TF1-567, TT, 2 July 2008, pp. 12907-08; TF1-584, TT, 19 June 2008, pp. 12236-39; TF1-375, TT, 23 June 2008, pp. 12523-43.

<sup>505</sup> TF1-360, TT, 5 February 2008, pp. 3154-55; Admitted Fact 11 re. the death of Sani Abacha in June 1998. See further Exh. P-571, which places the attack on Koidu on 10 to 11 June 1998.

<sup>506</sup> TF1-360, TT, 5 February 2008, pp. 3159-65, 3167-69.

<sup>507</sup> See for example TF1-360, TT, 5 February 2008, p. 3171.

*Planned and directed the multi-axis, nationwide offensive culminating in the January 1999 attack on Freetown*

*a. Planned the operation*

158. As noted above, between mid-February 1998 when the Junta was forced from Freetown, and the fall of 1998, the AFRC/RUF alliance had complete control over the foremost mining area of Kono District for only a short period of time. Thereafter, they had control over only portions of the District. Although they were able to continue diamond mining in some areas, they did not have control over Koidu Town. As discussed, securing the entire Kono area was considered essential to any attempt to retake control of the country via a successful assault on Freetown. Hence, Taylor continued to emphasize the need to retake control of the entire District.
159. As noted above, the Fitti Fatta mission was meant to be the prelude to a nationwide, multi-axis offensive culminating in retaking Freetown. The plan for the “big mission” called for Superman and Bockarie to have discussions in Buedu following the Fitti Fatta mission. Superman was then to convey the outcome of these discussions to SAJ Musa in the Koinadugu axis.<sup>508</sup>
160. After the failed Fitti Fatta mission, Superman obeyed Bockarie’s summons to meet with him in Buedu. Upon returning to Superman Ground in Kono District after this meeting, Superman relayed Bockarie’s instruction that the AFRC and RUF should continue to work together. Superman told his subordinates that he was going to SAJ Musa in the Koinadugu District, as those fighters should not be alone—where the AFRC was, there should also be RUF. In accordance with Taylor’s plan which Bockarie had earlier conveyed, Superman went to join SAJ Musa, taking both AFRC and RUF personnel with him.<sup>509</sup>
161. Events after the failed Fitti Fatta mission reinvigorated the appropriateness of trying again to implement this plan. In June 1998, Nigerian President Abacha died, and the new Nigerian government had doubts about the presence of their troops as part as ECOMOG forces in Sierra Leone. Bockarie explained that the Nigerian soldiers were weakened and discouraged because of Abacha’s death, so operations should be

<sup>508</sup> TF1-360, TT, 5 February 2008, pp. 3163-67.

<sup>509</sup> TF1-360, TT, 5 February 2008, pp. 3166-69 & TT, 6 February 2008, pp. 3184-3224; TF1-375, TT, 23 June 2008, pp. 12543-44 and 24 June 2008, pp. 12556-58; TF1-567, TT, 2 July 2008, p. 12908.

undertaken to chase ECOMOG out.<sup>510</sup> In addition, in July 1998, Sankoh was transferred from custody in Nigeria to Sierra Leone and, in October 1998, sentenced to death.<sup>511</sup> Given these events, Taylor and Bockarie determined to move again on this major offensive to retake Kono District, Tongo Fields, and the territory all the way to Freetown, thereby ensuring, if successful, control over the richest diamond mining areas and over Freetown, the city where Sankoh was believed to be held and the city necessary for control of the territory and population of Sierra Leone. Even if unsuccessful, a ruthless terror operation would likely force the government of Sierra Leone to negotiate with the rebels, thereby ensuring their continued existence and a place of power in the country, a tactic Taylor had used to his advantage in Liberia and had in mind for Sierra Leone.<sup>512</sup>

162. During the second half of 1998, leading up to the trip to Monrovia and Burkina Faso in November, Sam Bockarie visited Monrovia frequently to meet with Charles Taylor. These visits gave the Accused and Bockarie ample time for face-to-face discussions on refining and implementing the plan after the failed Fitti Fatta mission. Taylor admitted to three occasions when Bockarie came to Monrovia in the latter half of 1998—September, October, November/December, and that on all three occasions he met with Bockarie.<sup>513</sup>
163. As for the September visit, Taylor admitted to the Court that this visit was “very, very secret.”<sup>514</sup> Taylor got confused about what his story was to be in regard to the October 1998 trip, telling the court that Bockarie did come to Monrovia in October,<sup>515</sup> then saying Bockarie was not in Liberia in October 1998,<sup>516</sup> then telling the Court that

<sup>510</sup> TF1-585, TT, 8 September 2008, pp. 15678-79; Accused, TT, 10 August 2009, pp. 26344-45 and 11 August 2009, pp. 26422-24, 26458-59, 26512 and 30 July 2009, p. 26512. See also Exh. D-19, p. 2 showing that ‘Nigeria, the most powerful state in West Africa, leads the intervention army fighting on the side of the Sierra Leone government side, but wants to pull its troops out’. See also Accused, TT, 25 November 2009, pp. 32461-63; Exh. D-191, para. 5: citing lack of funding for wanting to withdraw.

<sup>511</sup> Judicially Noticed Fact U; Judicially Noticed Fact V; Exhibit D-175, para. 4; Exh. P-78, p. 24.

<sup>512</sup> [REDACTED]; Exh. D-9, pp. 12-13: successfully took the war from Kailahun to Freetown - move to capture Kono earned marked gains for RUF on the political front – much military pressure from us and diplomatic pressure from the on-looking world the Leader released to Togo and peace agreement reached.

<sup>513</sup> Accused, TT, 22 September 2009, pp. 29337-38 and 5 August 2009, pp. 26015-16.

<sup>514</sup> Accused, TT, 22 September 2009, p. 29343.

<sup>515</sup> Accused, TT, 5 August 2009, pp. 26004-05, 26015.

<sup>516</sup> Accused, TT, 22 September 2009, pp. 29365, 29387.

Bockarie came back in October at Taylor's invitation.<sup>517</sup> In regard to Bockarie's trip to Burkina Faso, the country with which Taylor had a close association, Taylor admitted that he knew Bockarie and his entourage were on their way to Burkina Faso and that his government gave the delegation their travel documents for that trip.<sup>518</sup> Taylor further told the Court that he sent Musa Cisse with Bockarie as an interpreter,<sup>519</sup> although Lawrence Womandia, who accompanied Bockarie on the trip, spoke French,<sup>520</sup> as did Eddie Kanneh, who was also among the delegation,<sup>521</sup> and President Compaoré, as host, would have supplied the interpreters.<sup>522</sup>

164. Upon his return from Burkina Faso via Monrovia in late November/early December, Bockarie held meetings with AFRC/RUF personnel in Buedu, including smaller meetings with senior commanders. At these meetings with his subordinates, Bockarie reiterated the Taylor plan for an operation to capture Kono, Makeni and by all means, Freetown.<sup>523</sup>
165. Jungle was present at the meetings Bockarie held, and buttressed what Bockarie said, explaining that they had discussed how the mission should be run with the Pa—Charles Taylor—in Monrovia. Jungle spoke of the materiel that Bockarie had brought and said that they should not fear this time around, that there was no force that could withstand them.<sup>524</sup>
166. Bockarie thereafter contacted Superman in the Northern axis. Bockarie told Superman that because of what had happened with Sankoh, it was time to march on to Freetown,

<sup>517</sup> Accused, TT, 16 November 2009, pp. 31737-38.

<sup>518</sup> Accused, TT, 5 August 2009, pp. 26036-38, 26046 and 11 November 2009, pp. 31608-09 and 16 November 2009, pp. 31749-50 and 7 December 2009, p. 33074.

<sup>519</sup> Accused, TT, 17 September 2009, pp. 29248-49 and 16 November 2009, p. 31748 and 7 December 2009, p. 33074.

<sup>520</sup> Exh. P-63, pp. 00015489-90; TF1-568, TT, 17 September 2008, p. 16442; [REDACTED]

<sup>521</sup> Accused, TT, 17 September 2009, pp. 29248-49; Exh. P-63, p. 00015487.

<sup>522</sup> Accused, TT, 25 November 2009, p. 32492 and 26 October 2009, pp. 30284-86: the Accused confirmed that Kanneh was on this trip.

<sup>523</sup> [REDACTED]; TF1-516, TTs, 8 April 2008, pp. 6961, 6966-67; TF1-571, TT, 9 May 2008, pp. 9423-25: stating Sam Bockarie told them the plan was designed in Monrovia with Mr. Taylor; TF1-532, TT, 11 March 2008, pp. 5795-97; TF1-585, TT, 8 September 2008, pp. 15691-92; [REDACTED]; TF1-567, TT, 2 July 2008, pp. 12912, 12921; TF1-045, TT, 13 November 2008, pp. 20217-24. See also Exh. P-63, pp. 00015487, 00015489-91: stating "The CDS announced a senior officers meeting from where arrangements were to be done for full scale operations"; TF1-577, TT, 5 June 2008, pp. 11080-82; TF1-568, TT, 12 September 2008, pp. 16151-54; DCT-146, TT, 12 April 2010, p. 38667: the witness agrees that the objective of the operation was to go all the way to Freetown. See further DCT-172, TT, 4 August 2010, p. 45432: stating Freetown was the seat of power in the country which the RUF had been fighting for since 1991; see also Exh. P-93, p. 0025503.

<sup>524</sup> TF1-571, TT, 9 May 2008, pp. 9419, 9431-33.

and he instructed Superman to attack Makeni.<sup>525</sup> The AFRC/RUF implemented this plan and in December 1998/January 1999, AFRC/RUF forces engaged ECOMOG troops on multiple fronts throughout the country and prevented ECOMOG from martialling its forces to defend the capital city and its surroundings, e.g. Hastings and its airfield. As the Accused himself told the Court, by Christmas 1998, there were attacks practically all over the country and heavy, heavy fighting in Sierra Leone.<sup>526</sup>

167. As discussed in more detail below, Taylor provided massive support and ongoing instruction for this operation, including reinforcements who fought all the way to and in Freetown. In return, Taylor received diamonds and, of course, the assurance that he would be the major beneficiary once the diamond areas in particular and the country in general were again completely under the control of the AFRC/RUF.<sup>527</sup>

*The operation was to be "fearsome"*

168. Via satellite phone, Bockarie briefed Taylor on the outcome of the meetings and assured him that the plan would be followed.<sup>528</sup> Taylor and Bockarie determined how the plan was to be carried out, deciding to save ammunition by making the operation even more fearsome than all other operations before.<sup>529</sup> After this contact with Taylor, Bockarie announced Operation No Living Thing.<sup>530</sup> Nobody was supposed to stand in the way of the operation, and anything that stood in the way was to be eliminated.<sup>531</sup> Bockarie made clear that he would not tolerate any resistance as far as the operation was concerned.<sup>532</sup> The tactics of Operation No Living Thing typified the AFRC/RUF's

<sup>525</sup> TF1-275, TT, 22 February 2008, pp. 4549-50: stating "We were at Pumpkin Ground when we got information from the BBC that Foday Sankoh has been condemned in Freetown. Based on this information, Sam Bockarie called Superman over the HF radio and instructed him that this time they need not to waste time but to march on to Freetown. He told Superman that he was also in communication with Gullit and that Superman should get ready for Makeni, on to Freetown. Gullit will also start from Lunsar, on to Freetown. He had prepared Issa Sesay and Morris Kallon to also move on Koidu town, on to Makeni. Based on these instructions, Superman organized troops that were under his command and we moved from Pumpkin Ground on to Alkalia, to Makeni, after that instruction (...) We were instructed by Sam Bockarie to move on Makeni and attack Makeni and join the troops in Rosos, on to Freetown."

<sup>526</sup> Accused, TT, 6 August 2009, p. 26130.

<sup>527</sup> [REDACTED]; TF1-577, TT, 5 June 2008, pp. 11072-75.

<sup>528</sup> TF1-571, TT, 9 May 2008, pp. 9434-35, 9423-30; [REDACTED].

<sup>529</sup> TF1-532, TT, 11 March 2008, pp. 5796-97.

<sup>530</sup> [REDACTED]; TF1-045, TT, 18 November 2008, pp. 20514-15: Bockarie gave the order for No Living Thing to take place.

<sup>531</sup> TF1-275, TT, 22 February 2009, p. 4561: Sam Bockarie passed an order to Gullit to "chase anything that chased" him; TF1-532, TT, 11 March 2008, pp. 5795-97: further he confirms the goals and that the operation was designed to terrorise the population, "We should make the operation fearful than all the other operation that we had undertaken because we want to make sure that we take Freetown and hold on to power."; TF1-459, TT, 25 September 2008, pp. 17341-42.

<sup>532</sup> [REDACTED]; TF1-045, TT, 13 November 2008, p. 20221.

treatment of civilians.<sup>533</sup> Fighters were to raise the concern of the international community by killing civilians and burning. The operation which was carried out was indeed fearsome, aptly described by lead Defence counsel as an “orgy of violence which was the 6 January invasion of Freetown.”<sup>534</sup>

*b. Directed the operation*

169. Just as Bockarie directed the operation from Buedu,<sup>535</sup> Taylor, from Liberia, was controlling the overall plan and implementation of the plan through Sam Bockarie. Taylor did this directly and also through his most trusted subordinate, Benjamin Yeaten. As noted earlier, Bockarie considered Taylor as his father and was loyal to him.<sup>536</sup> It is therefore natural that Bockarie took orders from “his father” during this most crucial military operation, one involving a tremendous investment from Taylor in terms of materiel and manpower. There are several examples of Taylor’s role in directing this operation. The original plan was that Bockarie and his delegation would go to Libya to get the arms and ammunition, another country with which Taylor had a very close relationship. However, in Monrovia there was a change of plan and by Taylor’s instructions, Bockarie instead went to Burkina Faso to get the supplies needed.<sup>537</sup> No doubt the politically astute Taylor realized that he and Bockarie could use the fact that Compaoré was the current chairman of the OAU<sup>538</sup> as a “diplomatic cover” for the real purpose of the trip.
170. Taylor had his most trusted military man, Benjamin Yeaten, work closely on this offensive. In Monrovia, Yeaten discussed targets for the plan with Bockarie, a decision being made that the first targets would be Kono and Tongo. Yeaten and his securities travelled to Buedu and met with Bockarie just before the attack on Kono in December 1998, as confirmed by one of Bockarie’s personal radio operators who was in Buedu on that day.<sup>539</sup> During the operation, Bockarie and Yeaten were in contact every 3-4 hours

<sup>533</sup> [REDACTED]; TF1-201, TT, 31 October 2008, pp. 19751-52; TF1-459, TT, 25 September 2008, pp. 17331-32; Exh. P-430B; Exh. P-431.

<sup>534</sup> Accused, TT, 17 September 2009, p. 29277.

<sup>535</sup> See Section VI.

<sup>536</sup> See Section II.A; TF1-406, TT, 10 January 2008, pp. 925-26; TF1-577, TT, 5 June 2008, p. 11072, 11075-76, 11083; TF1-532, TT, 31 March 2008, p. 6226-27; [REDACTED].

<sup>537</sup> TF1-274, TT, 3 December 2008, pp. 21541-45.

<sup>538</sup> Charles Taylor, TT, 18 January 2010, p. 33454; Exh. P-63, p. 00015490. See also Exh. P-430A citing Bockarie who “repeated his call for Burkinabe President and current OAU Chairman Blaise Compaoré to mediate between the rebels and President Kabbah.”

<sup>539</sup> TF1-274, TT, 3 December 2008, pp. 21558-61.

on a daily basis. Bockarie provided Yeaten with updates from the front line. As one radio operator described, “Sometimes Mosquito would contact Benjamin to consult him on some decisions before ever he took them.”<sup>540</sup>

171. After the capture of Koidu town, Yeaten’s radio operator was informed of the capture of the town, of the seizure of arms and ammunition and of the abduction of Nigerian ECOMOG soldiers.<sup>541</sup> Bockarie also spoke directly with Yeaten on the satellite phone immediately after the capture of Koidu town.<sup>542</sup> Bockarie passed on this information and the information that some of the fighters were proceeding towards Tongo, whilst others were moving toward the Masingbi area.<sup>543</sup> The captured ECOMOG soldiers were held in Buedu. Then Bockarie related that he had received an order from Taylor to release them. As usual, Bockarie complied with Taylor’s order and released them to Yeaten and Tuah in Foya.<sup>544</sup>
172. Around 7 January 1999, Taylor sent an order to Bockarie via Yeaten for the high profile prisoners released from Pademba Road prison, including former President of Sierra Leone Joseph Momoh, to be sent behind the front lines to Buedu. Bockarie responded to this order, “Yes, sir. Okay, okay, I will do that.” Bockarie passed that order to Gullit and the released prisoners, except for Gibril Massaquoi, were sent to Buedu.<sup>545</sup> Immediately after the retreat from Freetown and after having spoken with Charles Taylor’s radio operator, Bockarie issued a command to AFRC/RUF troops near Freetown to set ambushes and set specific attacks immediately.<sup>546</sup>
173. During the Freetown invasion, Bockarie even went to Monrovia to take instructions from Taylor. On Taylor’s instruction, Bockarie flew by helicopter from Foya to Monrovia and then back to Foya some 72 hours later. Stations 020 at the Executive Mansion and Base 1 at Yeaten’s residence notified Bockarie’s personnel to come to receive Bockarie in Foya, which they did. Bockarie returned with ammunition. Upon

<sup>540</sup> TF1-274, TT, 3 December 2008, p. 21615.

<sup>541</sup> TF1-567, TT, 2 July 2008, p. 12918.

<sup>542</sup> TF1-274, TT, 3 December 2008, pp. 21555-57.

<sup>543</sup> TF1-274, TT, 3 December 2008, pp. 21555-57: the witness dates these attacks as occurring between 15–20 December 1998.

<sup>544</sup> TF1-276, TT, 23 January 2008, pp. 2028-29.

<sup>545</sup> TF1-274, TT, 3 December 2008, pp. 21586-90: “After some time Benjamin came back to Mosquito and called him on the sat phone and he gave him instructions to make sure that he told Gullit and others to dispatch all those big names that he had mentioned to call for them to be with him in Buedu at the headquarters, that they should not be at the front line. He said that was the instructions from Mr. Taylor”; TF1-568, TT, 15 September 2008, pp. 16178-80; TF1-585, TT, 8 September 2008, pp. 15730-31; TF1-516, TT, 8 April 2008, pp. 6933, 6938-39 and 9 April 2008, pp. 6977-78.

<sup>546</sup> TF1-516, TT, 8 April 2008, pp. 6941-43.

his return, Bockarie said that President Taylor had instructed him he should maintain the RUF-controlled areas.<sup>547</sup> As another example of his control over the operation, it was Taylor who announced a ceasefire during the fighting.<sup>548</sup>

174. Bockarie continued to take direct instruction from Taylor after the withdrawal from Freetown and continued to keep Taylor informed of what was happening in Sierra Leone through his, Bockarie's, visits to Monrovia and through constant radio communication between his radio operators in Sierra Leone and Taylor's subordinates in Liberia.<sup>549</sup>

*Taylor used subordinates to convey instruction, direction, guidance*

175. As he did throughout Bockarie's tenure as leader on the ground in Sierra Leone, Taylor continued to use his Liberian subordinates, including Jungle, Marzah, Sampson and Benjamin Yeaten, to relay instruction to Bockarie and to receive briefings from Bockarie regarding the operation.<sup>550</sup> For example, during the attacks on Koidu, Makeni and locations in Kenema district, Marzah, Sampson and Jungle were in Buedu on multiple occasions. They met with Bockarie and received his briefings about the operations, then went back to inform Yeaten.<sup>551</sup> Before the Freetown invasion, Sherif observed Benjamin Yeaten and Sam Bockarie together in Foya.<sup>552</sup>

### Post Lomé

*Summoned AFRC/RUF to explain situation when Sankoh's residence attacked in May 2000*

176. When Sankoh's residence was attacked in Freetown in May 2000, Taylor summoned an AFRC/RUF representative and Memunatu Deen to explain the situation. Yeaten transported these individuals to the Executive Mansion to meet with Taylor. The representative met with Taylor at the Executive Mansion at night—Taylor was dressed

<sup>547</sup> TF1-276, TT, 23 January 2008, pp. 2011-12, 2023-24; TF1-516, TT, 8 April 2008, pp. 6945-46, 6962-65 and 9 April 2008, p. 6981.

<sup>548</sup> Accused, TT, 10 August 2009, p. 26271 and 11 August 2009, p. 26434 and 16 September 2009, pp. 29048, 29054, 29096-97.

<sup>549</sup> TF1-274, TT, 2 December 2008, pp. 21504-06: a radio exchange recorded by the witness was played in court and he identified Sankoh, Sunlight (who the witness earlier describes as Benjamin Yeaten's operator), and CO Isaac. See Exh. P-261 (Recording, Tab 19, clip 1 of T0000359 - T0000363).

<sup>550</sup> TF1-577, TT, 5 June 2008, pp. 11080-82; TF1-571, TT, 9 May 2008, pp. 9416-19, 9429-33.

<sup>551</sup> [REDACTED]; TF1-579, TT, 5 November 2008, pp. 19830, 19837, 19846-48.

<sup>552</sup> TF1-406, TT, 9 January 2008, p. 864.



in pyjamas.<sup>553</sup> After this meeting, Taylor spoke with Issa Sesay and said Sesay should come meet with him in Monrovia and bring someone who had been in Freetown during the incident. Issa Sesay responded by travelling to Monrovia via Weasua helicopter from Foya. In Monrovia, Sesay was taken to the Guest House where Rashid Foday and Memuna Deen worked. Around 10 or 11 pm, Yeaten took Sesay to meet with Taylor. Taylor asked why his brother had been arrested and the person who had been in Freetown briefed Taylor. Taylor said that Sesay should maintain the ground until Sankoh returned.<sup>554</sup>

177. At this meeting Taylor also asked Sesay and his delegation if they knew anything about any British Milobs—military observers—who were arrested in Sierra Leone. The person who had been in Freetown replied that he did know about that. When told that the Milobs had been handed over to UNAMSIL, Taylor said that was a great mistake, they should have held on to the Milobs and used them as a bargaining chip to secure the release of Foday Sankoh.<sup>555</sup>

*Instructed Sesay to release the UN Peacekeepers to him*

178. After the arrest of the UN peacekeepers in May 2000, Sesay sent subordinates to tell Taylor that they had “captured so many UN troops with guns,” so they needed Taylor’s advice. Taylor, ever the astute politician, realized this action could endanger the AFRC/RUF’s hold over its territory, in particular diamond mining areas. Therefore, Taylor sent for Sesay and Sesay immediately came to Monrovia. Taylor met with Sesay around 10 or 11 pm at the Executive Mansion. Taylor explained he had been promised that if he could obtain the release of the Peacekeepers, it would benefit him, Taylor, as the world would know that when he said something, it happened. Taylor also said he had been promised that if he could get the hostages released he would be made Chairman of ECOWAS. Taylor said if Sesay released the hostages he, Taylor, would help Sesay with the “struggle.” Sesay released the hostages, telling his subordinates he

<sup>553</sup> [REDACTED] Please also see TF1-590, TT, 16 June 2008, pp. 11839-40: when the witness was taken before Taylor, Taylor was wearing pyjamas.

<sup>554</sup> TF1-338, TT, 1 September 2008, pp. 15128-32 [REDACTED]

<sup>555</sup> TF1-338, TT, 1 September 2008, pp. 15130-32.

had no choice as now Taylor had said they should release them.<sup>556</sup> In return, Taylor gave Sesay arms and ammunition.<sup>557</sup>

179. Obtaining the release of the Peacekeepers not only raised Taylor's stature in the region and internationally,<sup>558</sup> it also benefited him by protecting his proxy force from a full assault by UNAMSIL, thereby ensuring that the AFRC/RUF could continue to hold its territory. Taylor's manipulation of this situation to his benefit is clearly demonstrated by the manner in which the Peacekeepers were released. UNAMSIL was headquartered in Sierra Leone, with access to Lungi airport. However, the Peacekeepers were taken to a location in Liberia and then flown to Monrovia. This indirect route was taken rather than simply handing the peacekeepers over at a neutral site in Sierra Leone or even at a location in Sierra Leone under the control of the AFRC/RUF alliance.

*Engineered the appointment of Sesay as Interim Leader*

180. After Sankoh's arrest, Taylor was instrumental in selecting a new leader who would be amenable to following Taylor's dictates. Failing with his first choice, Sam Bockarie, Taylor decided upon Issa Sesay. During Sesay's reign, Taylor continued to give strategic instruction, direction and guidance, which the new leader of the RUF followed. In July 2000, Taylor summoned Issa Sesay to Monrovia and Sesay obeyed, arriving with a delegation that included Augustine Gbao. Sesay and his delegation first met with Taylor and other ECOWAS presidents, including President Obasanjo of Nigeria, President Jammeh of Gambia, President Eyadema of Togo and President Konare of Ivory Coast. During the meeting, the other leaders acknowledged Taylor's leadership role with the AFRC/RUF. Taylor said that it was necessary to change the leadership of the RUF because Sankoh was too old, stubborn and lazy. Augustine Gbao and Issa Sesay objected to this. Taylor first attempted unsuccessfully to have Sam Bockarie reinstated, choosing to have as leader the man closest and most useful to him, as well as most trusted. But when Taylor suggested sending Mosquito to Sierra Leone as RUF leader, Issa objected. Taylor then suggested Issa become leader. Issa said he would need to inform the RUF family before accepting the position or appointing someone

<sup>556</sup> TF1-338, TT, 2 September 2008, pp. 15141-45, [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13037-40. See also TF1-276, TT, 23 January 2008, pp. 2027-31: the witness testified about the 500 peacekeepers held hostage by the RUF in 2000 and said that ultimately Sesay called a meeting in Makeni and explained that he had no alternative but to release these hostages and handed them over as ordered by Taylor.

<sup>557</sup> TF1-567, TT, 7 July 2008, p. 13040.

<sup>558</sup> See for example Exh. D-245.

else. Taylor held a private meeting with the delegation following the meeting with all the presidents.<sup>559</sup>

181. After these meetings, Issa Sesay and his delegation returned to Sierra Leone, where he convened a meeting to discuss the proposal that he become leader of the RUF. The attendees agreed in principal that Sesay could act as leader in Foday Sankoh's absence; however, they also wished to have written conformation of this from Sankoh. Sesay was then invited back to Monrovia by Charles Taylor, where Sesay met with Taylor, Obasanjo and Konare at Roberts International Airport. Sesay was provided with a letter signed by Foday Sankoh, stating that he did not approve of Sesay becoming the leader of the RUF; however, Issa Sesay could be the interim leader whilst Foday Sankoh was detained. The letter further directed that, just as Bockarie had taken instructions from Charles Taylor whilst Sankoh was previously detained, in the same way Issa Sesay would take instructions from Taylor. Sesay returned to Sierra Leone and reconvened another meeting where his appointment as Interim Leader of the RUF was endorsed.<sup>560</sup>

*Instructed Sesay to delay, resist the disarmament in Sierra Leone thereby prolonging the conflict and commission of crimes against civilians*

182. Taylor gave ongoing instruction, direction and guidance to Issa Sesay to resist the disarmament in Sierra Leone. Sesay complied, thus prolonging the conflict.<sup>561</sup> At the private meeting with the delegation mentioned in paragraph 180 above, Taylor's real agenda was laid out. Taylor told Sesay not to listen to the Sierra Leone government as it was a British elected government which was "remote controlled" by the British. Taylor said that anytime Sesay was asked to disarm by the UN, he should say yes but not do it. Taylor also assured Sesay that he would continue to assist the RUF as he had done before, and provided Sesay with \$15,000 US.<sup>562</sup>
183. [REDACTED]
- [REDACTED].<sup>563</sup> During Sesay's reign, the AFRC/RUF leadership continued to be very loyal to Taylor and to consider him as their father,<sup>564</sup> even after Superman's gruesome

<sup>559</sup> TF1-338, TT, 2 September 2008, pp. 15146-50. [REDACTED]. See also Accused, TT, 19 August 2009, pp. 27160-62; DCT-292, TT, 12 August 2010, pp. 46143-44; DCT-172, TT, 26 August 2010, p. 47198.

<sup>560</sup> TF1-338, TT, 2 September 2008, pp. 15151-56. See also Accused, TT, 19 August 2009, pp. 27167-68.

<sup>561</sup> See for example TF1-338, TT, 5 September 2008, p. 15556-57; TF1-571, TT, 13 May 2008, p. 9658.

<sup>562</sup> TF1-338, TT, 2 September 2008, pp. 15149-51.

<sup>563</sup> [REDACTED].

<sup>564</sup> TF1-567, TT, 7 July 2008, pp. 13038-40. See also [REDACTED].

murder in 2001.<sup>565</sup> Taylor and his commanders met regularly with Issa Sesay, who frequently came to Monrovia,<sup>566</sup> directing him to resist disarmament. Sesay continued to obey Taylor's direction to resist disarmament.<sup>567</sup> As late as 2001, Taylor met Issa Sesay and other top commanders in Monrovia, where Taylor expressed his mistrust of the UN disarmament process in Sierra Leone and gave money to Issa Sesay to make sure the RUF stayed strong and did not disarm Kono and Kailahun districts.<sup>568</sup> However, disarmament at last became an inevitable reality in Sierra Leone. This came about for a number of reasons, including the very likely "battle fatigue" on the part of AFRC/RUF fighters, heavy losses from fighting for Taylor in Liberia and Guinea, the number and resources of the opposing forces in Sierra Leone, and Sesay's own wishes to reap the benefits of a peace.

184. Faced with that reality in Sierra Leone, Taylor nonetheless continued to do all that he could to prevent or postpone AFRC/RUF disarmament,<sup>569</sup> and was successful in postponing it. The AFRC/RUF did not disarm in Kono District until September 2001.<sup>570</sup> Even then, Sesay delayed disarmament in Kailahun District until late 2001/mid January 2002,<sup>571</sup> that District being key to Taylor's efforts to resist LURD.<sup>572</sup>

<sup>565</sup> [REDACTED]; DCT-172, TT, 26 August 2010, pp. 47191, 47207; DCT-102, TT, 5 November 2010, p. 48899.

<sup>566</sup> [REDACTED]; TF1-375, TT, 24 June 2008, p. 12686: the witness, who worked in Monrovia for Benjamin Yeaten when Issa Sesay was the RUF's Interim Leader, said that he saw Issa Sesay in Monrovia "several times."

<sup>567</sup> TF1-338, TT, 2 September 2008, pp. 15157-61, 15176-78.

<sup>568</sup> [REDACTED]; TF1-338, TT, 2 September 2008, pp. 15164-69, 15173-75.

<sup>569</sup> TF1-375, TT, 24 June 2008, p. 12691: "Benjamin Yeaten told Issa Sesay that, that the old man told him that they should not disarm, because if they disarm it would not be good for them in Liberia"; [REDACTED]

[REDACTED] See also TF1-338, TT, 2 September 2008, pp. 15176-78.

<sup>570</sup> DCT-172, TT, 26 August 2010, p. 47283: the witness stated that Kono's disarmament took place in September 2001.

<sup>571</sup> Exh. D-317, para. 3 noting disarmament would not commence in Kailahun until late November 2001; TF1-516, TT, 9 April 2008, p. 7106: disarmament went on in Kailahun late 2001 and was the last district to disarm; Exh. P-604C, para. 13: disarmament formally completed by 17<sup>th</sup> January 2002; TF1-571, TT, 12 May 2008, pp. 9515-16, 9548: the witness stated he was in control of the Kailahun District and that the 2002 elections coincided with the disarmament of the area.

<sup>572</sup> See other sections of this Brief regarding Taylor's efforts to resist LURD.

## II. C. TAYLOR'S KEY ROLE IN MAINTAINING AND STRENGTHENING AFRC/RUF ALLIANCE

### Introduction

185. Taylor realized the importance of a strong AFRC/RUF alliance in achieving the ultimate objectives in Sierra Leone to pillage the resources, in particular the diamonds, and control the people and territory. He realized that the RUF was in a much better position if it forged and maintained an alliance with the AFRC than if the AFRC became yet another force against which the RUF must fight. Taylor was instrumental in creating and maintaining a viable and strong alliance during and after the Junta period. During the Junta, he remained informed of the situation on the ground in Sierra Leone, including the movement of troops and progress at the front lines, via communications between his radio operators in Liberia and AFRC/RUF operators.<sup>573</sup> Taylor was thus able to continue to take informed action to keep the alliance functional.

### Junta period

#### *Immediately recognized and supported the alliance*

186. Cognizant of Taylor's key role with the RUF, the main reason the AFRC leaders requested the RUF to join them and govern together was to bring Taylor on side—for that, they needed the RUF.<sup>574</sup> Indeed, it was the RUF that provided Koroma with the contact number for Taylor and Taylor was one of first contacts Koroma first made after taking over as Chairman of the Junta.<sup>575</sup> After the call to Taylor, Koroma relayed the conversation with Taylor to his men, saying that Taylor said he accepted the AFRC/RUF alliance and advised Koroma to work as a team with the RUF. Taylor also indicated his control over the RUF, telling Koroma that if the AFRC had any problems with the RUF, Koroma should call him, Taylor.<sup>576</sup>

<sup>573</sup> TF1-274, TT, 2 December 2008, p. 21429

<sup>574</sup> TF1-597, TT, 22 May 2008, pp. 10512-13.

<sup>575</sup> TF1-597, TT, 21 May 2008, p. 10442: stating Gibril Massaquoi brought the telephone numbers; TF1-597, TT, 21 May 2008, p. 10445.

<sup>576</sup> TF1-597, TT, 21 May 2008, pp. 10443-47 and 22 May 2008, p. 10513: the witness was present when the call was made to Taylor and present when Koroma relayed the content of the call. Calls were also made to the Presidents of Niger (Mainassara) and Burkina Faso (Blaise Compaoré) and Libya (Gadafi), but the call to Charles Taylor was of the longest duration.

187. The Accused “recognized” the Junta Government and agreed to act as an “ambassador” or “advocate” for the Junta Government in relation to ECOWAS.<sup>577</sup>

*Accepted Junta delegation and pledged would support the Junta*

188. As discussed in more detail at paragraphs 226-227 below, Taylor’s representatives met with a Junta delegation sent to Monrovia in August 1997. The delegation requested materiel and asked that the Accused assist the Junta to get recognition within ECOWAS States.<sup>578</sup> The Accused’s Foreign Minister, Monie Captan, reiterated to the delegation that Taylor was willing to work with the ECOWAS Committee to recognize the Junta. Captan also conveyed that Taylor would be in touch with Johnny Paul Koroma, would pay the delegations’s hotel bills, and would provide escort for them to the airport. [REDACTED]

[REDACTED]<sup>579</sup>

Post Intervention

189. In addition to the instruction, direction and guidance he provided, Taylor took other steps to ensure the continued existence of the alliance. Taylor ensured the alliance received vital materiel, as discussed in Section II.D., and used his control over the border to allow movement across the border, including sending ex-SLA fighters from Liberia to rejoin the alliance, as discussed below. Taylor took these actions even as crimes against the civilian population of Sierra Leone intensified after the AFRC/RUF retreated from Freetown.

*Sent ex-SLA fighters back to the alliance*

190. After the intervention in mid-February 1998, the AFRC/RUF were located in relatively remote areas of Sierra Leone with free access to the border of Liberia, which at this time was under the control of President Charles Taylor,<sup>580</sup> a fact that Taylor used to his advantage. Taylor strengthened the alliance by returning experienced SLA officers and troops from Liberia to rejoin the rebel ranks in Sierra Leone.<sup>581</sup>

<sup>577</sup> TF1-597, TT, 21 May 2008, pp. 10443, 10445: stating the AFRC did not get recognition from the international community, but they did receive recognition from Liberia, Burkina Faso, Niger and Libya.

<sup>578</sup> [REDACTED]; TF1-597, TT, 21 May 2008, pp. 10453-58.

<sup>579</sup> [REDACTED].  
<sup>580</sup> Dr. Stephen Ellis, TT, 16 January 2008, p. 1471.

<sup>581</sup> TF1-539, TT, 10 June 2008, pp. 11473-74; TF1-334, TT, 23 April 2008, pp. 8400-03 and 24 April 2008, pp. 8509-11; DCT-172, TT, 30 July 2010, pp. 45170-72.

Lomé: Taylor ensured the AFRC/RUF received significant benefits from the Lomé Peace Agreement and ensured Sankoh signed the favourable agreement

191. As Taylor had predicted when he devised his plan with Bockarie for the late 1998 offensive, the horrific atrocities committed during the attack on Freetown in January 1999 pushed the government to the negotiation table in Lomé. Although they had been pushed back out of Freetown and adjoining areas, the invading forces had wreaked such havoc and destruction that the international community and the Sierra Leone Government determined negotiation was the best action. Taylor knew that these negotiations would benefit the AFRC/RUF and him, giving them time to regroup, re-provision, rest and consider the best way ahead. Taylor also knew that it would benefit the AFRC/RUF if Sankoh signed a favourable agreement—which could be ignored after it was signed, as Taylor had done many times in Liberia and as Sankoh did in Abidjan. With these considerations in mind, Taylor played a key role in protecting and advancing the common interests he had with the AFRC/RUF during the peace process and in securing Sankoh's signature on the agreement.
192. Charles Taylor once again used diplomatic cover to protect and advance the interests he shared with the AFRC/RUF. He used his political power as Head of State and the pretence of working for peace to further these shared interests of pillaging the resources of Sierra Leone, in particular the diamonds, and controlling the territory and people of Sierra Leone. The Accused took multiple actions to ensure that he and the AFRC/RUF would benefit to the maximum extent from these negotiations.

#### *Negotiating team*

193. Taylor made sure he and his designees were a significant part of the negotiations from the start, putting his own negotiating team in place as early as April 1999, within a month of re-provisioning the AFRC/RUF with arms and ammunition he had obtained in violation of the arms embargo on Liberia. The team was headed by a senior and trusted subordinate and Taylor remained involved throughout the process.<sup>582</sup> Sankoh arrived in Lomé in about mid-April,<sup>583</sup> giving Taylor's negotiators ample time to work with him to formulate positions most favourable to the AFRC/RUF and to Taylor.

<sup>582</sup> Accused, TT, 12 August 2009, pp. 26551-52. See also TF1-561, TT, 20 May 2008, p. 10314: D Musuleng Cooper, the former Liberian foreign minister, served as President Taylor's envoy to Lomé.

<sup>583</sup> Accused, TT, 17 September 2009, p. 29212.

*Individual liaisons to Sankoh*

194. In addition to his negotiating team, Taylor sent personal liaisons to Lomé to meet with Sankoh during the peace talks.<sup>584</sup> Taylor used Daniel Tamba aka Jungle, his SSS subordinate, and Ibrahim Bah, his long-time associate, as personal liaisons to Sankoh during the peace negotiations.<sup>585</sup> Taylor also sent Memunatu Deen and Bah with \$20,000 for Sankoh's personal use. [REDACTED]

[REDACTED]<sup>586</sup>

*Taylor ensured Sankoh's delegation travelled to Lomé through Monrovia*

195. Taylor also ensured that Sankoh's delegation, which included both AFRC and RUF members,<sup>587</sup> travelled to Lomé via Monrovia,<sup>588</sup> thereby giving him the opportunity to provide instruction to the group before it reached Lomé. Taylor was involved and was making decisions regarding this process.<sup>589</sup> The Accused's government, "which grants what it wants," provided their travel documents.<sup>590</sup> It is most important to note that "special guests" Ibrahim Bah and Omrie Golley,<sup>591</sup> who added their names to the list of delegates from Sierra Leone, were in Monrovia in advance of the other delegates and travelled separately to Lomé.<sup>592</sup> This gave them ample time to meet with Taylor and receive instructions to pass on to Sankoh in relation to positions to take at Lomé. The Accused admitted to speaking with both of them before they left for Lomé.<sup>593</sup> When Golley and Bah went to the Liberia/Sierra Leone border to cross over into Sierra Leone, Golley and Bah were accompanied by Taylor's SSS, including the Deputy Director.<sup>594</sup> Golley spoke out in favour of Taylor, complaining that Taylor had not been given the

<sup>584</sup> TF1-567, TT, 4 July 2008, pp. 12965-67, 12969-71: stating Jungle, Ibrahim Bah, and Omrie Golley were in Lomé; [REDACTED]

<sup>585</sup> TF1-567, TT, 4 July 2008, pp. 12969-71; [REDACTED]; TF1-274, TT, 2 December 2008, p. 21491.

<sup>586</sup> [REDACTED]

<sup>587</sup> See for example [REDACTED]; Exh. D-193D; Exh. D-193K.

<sup>588</sup> [REDACTED]; TF1-567, TT, 4 July 2008, pp. 12965-67; TF1-338, TT, 1 September 2008, p. 15116; Exh. D-193F; Exh. D-193H; Exh. D-193I.

<sup>589</sup> Accused, TT, 11 August 2009, pp. 26515-16.

<sup>590</sup> Accused, TT, 12 August 2009, pp. 26575-76 and 11 August 2009, p. 26504.

<sup>591</sup> Accused, TT, 11 August 2009, pp. 26503-04; Exh. D-193 B.

<sup>592</sup> Accused, TT, 11 August 2009, pp. 26502-06, 26513-14, 26521 and 17 September 2009, p. 29262; Exh. D-193E, para. 5; [REDACTED]; TF1-274, TT, 3 December 2008, p. 21624: the witness, Sankoh and Bah remained until the end of the talks.

<sup>593</sup> Accused, TT, 11 August 2009, p. 26516.

<sup>594</sup> Exh. D-193B, paras. 2, 3; D-193C, p. 1; Exh. D-193E, paras. 1, 2: stating that Golley and Bah travelled to the border, escorted by SSS including the Deputy Director.



respect he deserved or properly consulted.<sup>595</sup> Golley insisted that the press not speak with Sankoh before the arrival of the RUF delegation in Lomé,<sup>596</sup> thus ensuring that Sankoh would be isolated until he had a chance to receive any instructions, direction, and guidance from Taylor.

196. Taylor's personnel provided transport to the delegation in Monrovia, and Taylor provided them, among other support, with accommodation and money which he dispensed to them via Benjamin Yeaten.<sup>597</sup>

*Direct contact with Sankoh*<sup>598</sup>

197. Taylor and Sankoh communicated directly, and Sankoh's radio operators frequently communicated with Taylor's operators to give Taylor updates on the peace talks.<sup>599</sup> The Accused himself travelled to Lomé around 5 July 1999, as did other African leaders such as President Obasanjo of Nigeria and President Compaoré of Burkina Faso.<sup>600</sup> The Accused was thus situated to intervene personally to ensure the AFRC/RUF received all possible advantages from the peace agreement. The Accused, along with President Eyadema of Togo and President Compaoré, Taylor's good friend and long-time supporter, were supposed to deal jointly with the RUF. Taylor met with Sankoh, but at least some of those meetings appeared to be outside the presence of the other African leaders.<sup>601</sup> This gave the Accused ample time to work with Sankoh to ensure that Lomé was a success for the AFRC/RUF and, thus, for Taylor.
198. By his own admission, Taylor had contact with Bockarie a few times during the Lomé peace process.<sup>602</sup> Taylor likely had similar contact with Johnny Paul Koroma. It is also likely that as a result of Taylor's efforts on their behalf, Bockarie and Johnny Paul

<sup>595</sup> Accused, TT, 11 August 2009, p. 26520: stating that Golley was "not quite right" about his claim that the Accused was not fairly treated by ECOWAS and the United Nations; Exh. D-193E, para. 4.

<sup>596</sup> Exh. D-193 E, para. 3.

<sup>597</sup> [REDACTED]; TF1-567, TT, 4 July 2008, pp. 12972-73; Accused, TT, 24 September 2009, pp. 29605-06: stating the RUF representatives bound for Lomé were lodged at the RUF guesthouse in Monrovia and confirming he gave them some money; Exh. D-193J; [REDACTED]; TF1-567, TT, 4 July 2008, pp. 12972-73; TF1-338, TT, 1 September 2008, p. 15118; TF1-561, TT, 20 May 2008, p. 10313.

<sup>598</sup> See Exhs. D-198I & J.

<sup>599</sup> TF1-567, TT, 4 July 2008, p. 12977; TF1-274, TT, 3 December 2008, pp. 21615-20. See also Accused, TT, 12 August 2009, p. 26637.

<sup>600</sup> Accused, TT, 12 August 2009, p. 26570 and 17 September 2009, p. 29213; TF1-406, 9 January 2008, pp. 872-73; TF1-561, TT, 20 May 2008, p. 10315.

<sup>601</sup> Accused, TT, 12 August 2009, p. 26575: the Accused says that Sankoh comes to visit "me"; Exh. D-198I: photo of the Accused, Foday Sankoh and two other individuals including Sen Kpoto, a Liberian who spent a lot of time in Sierra Leone, and spoke Krio very well (see Accused, TT, 12 August 2009, p. 26575).

<sup>602</sup> Accused, TT, 27 October 2009, p. 30429.

Koroma sent messages indicating they were prepared to adhere to and respect the outcome of the peace talks.<sup>603</sup>

*AFRC/RUF the winners of Lomé Peace Agreement*

199. The result of Taylor's many efforts was a peace agreement that bestowed many benefits on the RUF and AFRC, including the acceptance of the RUF as a political party, funds to transition into a political party, and positions in the Sierra Leone government.<sup>604</sup> Both Taylor, his subordinates in Liberia, and the AFRC/RUF benefited from a blanket amnesty for all the crimes they had committed against civilians in Sierra Leone during the course of the war—a protection the Accused gave himself and his subordinates shortly before he left the Presidency to take refuge in Nigeria.<sup>605</sup> Another very notable consequence of the negotiations resulting in the Lomé Peace Accord was that its terms gifted the RUF with control of the diamond rich areas of Sierra Leone, and gave Sankoh, Taylor's good friend from before the revolution, chairmanship over the Board of the Commission for the Management for Strategic Resources, National Reconstruction and Development (CMRRD). This gave Sankoh a Vice-President level position and control over mineral resources in Sierra Leone, including diamonds,<sup>606</sup> which mining areas remained under the control of the AFRC/RUF.

*Met with Johnny Paul Koroma and delegation to promote unity against Kabbah Government*

200. After the signing of Lomé, Taylor expended much effort to keep the AFRC/RUF alliance strong and the internal working of the RUF component strong. The leaders of the alliance yielded to Taylor for resolution of issues. For example, it was Taylor who obtained the movement of Johnny Paul Koroma from Kailahun District to Monrovia. He did this by "telling" Bockarie to "release" Johnny Paul Koroma to travel to Monrovia and meet with Taylor.<sup>607</sup> At this meeting, Taylor expressed concern about divisions between the AFRC and the RUF and spelled out that he did not want a division between them. As the preparations were being made for Koroma to travel to Monrovia, Koroma had instructed the West Side Boys to send a delegation to meet him

<sup>603</sup> Exh. D-199, pp. 6-7.

<sup>604</sup> Exh. P-422; Accused, TT, 12 August 2009, pp. 26679-80; stating the Lomé Accord did not refer to the AFRC directly, but the term "RUF" included everybody.

<sup>605</sup> Exh. P-422, Article 9, p. 00004351. See also Exh P-423; Exh. P-424.

<sup>606</sup> Exh. P-422, Article 5 (2) p. 00004351; [REDACTED]; DCT-172, TT, 23 August 2010, p. 46856-57; DCT-062, TT, 23 April 2010, pp. 39800-01.

<sup>607</sup> TF1-367, TT, 21 August 2008, p. 14300; Accused, TT, 12 August 2009, pp. 26675-76: "we" told the RUF he should be released and they consented; Accused, TT, 10 September 2009, pp. 28651-62: Accused spoke with Bockarie and they "agreed" Koroma would be released; Exh. D-206, p. 1.

in Monrovia. Eleven members of that faction were selected and traveled from Lungi airport to Monrovia, where they met with Koroma after he had attended his initial meeting with Taylor.<sup>608</sup>

201. After this conversation with Koroma, five men including Brima Bazzy Kamara, Major Gbonlelenkeh, Bomb Blast, Junior Lion and A.B. Sesay were selected to accompany Koroma to a meeting with Taylor at Taylor's office in Monrovia. During the meeting, Taylor explained he had been providing assistance to the AFRC/RUF. He said that he had mobilized most of the SLAs who came to Liberia and sent them to Mosquito in Kailahun to participate in the 6 January attack on Freetown. He further stated that he had coordinated arms and ammunition and food for the alliance. So, Taylor said, he would not just sit by and see a problem erupt between the two groups. Taylor said he had been giving assistance to the AFRC/RUF so that they could remove Kabbah's government in Freetown. Taylor emphasized that the focus should be on ensuring that the AFRC/RUF were in the seat of power, rather than engaging in disputes amongst themselves. Taylor then reiterated that he did not want any division between the SLAs/AFRC and the RUF, and warned them that if the division continued this would "allow the politicians to use them" and they would find themselves in jail. Taylor also said that Sankoh was on his way from Togo to Ghana and that Taylor would like them to wait to meet with Foday Sankoh so that they could all return to Freetown together.<sup>609</sup>

*Met with Sankoh and Koroma to promote unity against Kabbah government*

202. Taylor was very aware of the need to maintain a strong AFRC/RUF alliance in order to further his ultimate objectives in Sierra Leone: to forcibly control the people and territory and to pillage the resources, in particular the diamonds. To achieve those objectives he needed a strong alliance that could effectively thwart the power and control of the Kabbah government. Most of the AFRC were loyal to the alliance throughout.<sup>610</sup> Sankoh travelled to Monrovia after the signing of the Lomé Peace Agreement.<sup>611</sup> As noted above, Koroma was also in Monrovia at that time. But Taylor took steps to reinforce to both Sankoh and to Koroma the importance of the alliance. To that end, he arranged and chaired meetings between Sankoh and Johnny Paul Koroma before the two returned to Sierra Leone. At these meetings, they discussed

<sup>608</sup> TF1-334, TT, 24 April 2008, pp. 8486-91, 8495-03; Accused, TT, 30 September 2009, pp. 30006-16.

<sup>609</sup> TF1-334, TT, 24 April 2008, pp. 8503-10.

<sup>610</sup> See for example Exh. D-85, p. 00009767; Exh. P-362, p. 00009490.

<sup>611</sup> TF1-567, TT, 4 July 2008, pp. 12978-79.

how they were to work together.<sup>612</sup> While Sankoh was in Monrovia, he was visited by friends from his days in Libya with Charles Taylor, including Joe Tuah and Benjamin Yeaten.<sup>613</sup> Sankoh left from RIA to go back to Sierra Leone; SSU were providing security at the airport.<sup>614</sup>

*Met with Sankoh before Sankoh returned to Sierra Leone*

203. After the Lomé Peace Agreement, while Sankoh was in Monrovia before returning to Sierra Leone, he met with Taylor many times.<sup>615</sup> These meetings gave Taylor ample opportunity to impart instruction, direction and guidance to Sankoh and to emphasize the need for a strong alliance to achieve the ultimate objectives of the shared joint criminal enterprise in which they both participated.

*Protected Bockarie in his dispute with Sankoh by bringing Bockarie and followers to Liberia*

204. On 14 December 1999, Bockarie and a multitude of followers left the RUF for safe haven with Taylor in Liberia.<sup>616</sup> Bockarie left to avoid arrest by Sesay on Sankoh's orders. Bockarie and his entourage took arms, ammunition and supplies with them when they left Buedu in December 1999.<sup>617</sup> [REDACTED]  
[REDACTED]<sup>618</sup> Sesay sent Momoh Rogers with a group of fighters in pursuit of Bockarie's entourage. However, Taylor ensured that Bockarie would indeed be safe in Liberia—at the border, Taylor's Liberian security forces, who had allowed Bockarie and his armed hundreds enter, beat Rogers and the other men. Rogers was beaten so severely that he required treatment until May 2000.<sup>619</sup> Yeaten met Bockarie in Voinjama and drove with him to Monrovia via Gbarnga, using vehicles from the SSS.<sup>620</sup> On 21 December 1999, at Taylor's request, President Obasanjo made a stopover at RIA to speak to Taylor about Bockarie. At that meeting, Obasanjo welcomed Taylor's initiative and promised to solicit regional support for Taylor's project.<sup>621</sup> Little did Obasanjo know that Bockarie was already in Liberia and the meeting was just a "diplomatic deceit."

<sup>612</sup> TF1-567, TT, 4 July 2008, p. 12978-80. See also Exh. D-22, Exh. D-23.

<sup>613</sup> TF1-567, TT, 4 July 2008, p. 12981.

<sup>614</sup> TF1-567, TT, 4 July 2008, p. 12982; SSU were a special security unit at Charles Taylor's mansion.

<sup>615</sup> [REDACTED]; TF1-532, TT, 31 March 2008, p. 6194.

<sup>616</sup> Exh. D-3, p. 00008764 & Exh. P-50 referred to by TF1-360, TT, 5 February 2008, p. 3080. See also TF1-516, TT, 9 April 2008, pp. 7037-38.

<sup>617</sup> [REDACTED]; TF1-585, TT, 8 September 2008, p. 16000.

<sup>618</sup> [REDACTED].

<sup>619</sup> DCT-172, TT, 14 July 2010, p. 44464.

<sup>620</sup> [REDACTED]; TF1-406, TT, 10 January 2008, pp. 886-87; TF1-585, TT, 8 September 2008, pp. 15663, 16001-02; TF1-388, TT, 10 July 2008, pp. 13441-43, 13445-47.

<sup>621</sup> Exh. D-228, p. 1.

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Taylor subsequently made full use of Bockarie and the experienced fighters and radio operators he brought with him, incorporating them into his security forces.<sup>622</sup> As discussed elsewhere in this Brief, Taylor exercised full command and control over Bockarie and his followers. Later, he used Bockarie and Bockarie's entourage to advance Taylor's interests in Ivory Coast.<sup>623</sup>

*Allowed Sankoh to come to Monrovia in 2000 despite travel ban and received diamonds from Sankoh*

205. In 2000, Sankoh came to Monrovia from South Africa<sup>624</sup> and stayed at the RUF guest house. [REDACTED]

[REDACTED]<sup>625</sup>

[REDACTED]<sup>626</sup>

## **II.D. ARMS AND AMMUNITION AKA MATERIEL**

### Introduction

206. As noted above, the Accused provided the materiel critical to a successful initial invasion and the subsequent expansion into Sierra Leone. Throughout the remainder of the conflict, the Accused provided the RUF and AFRC/RUF with a wide variety of arms and ammunition aka materiel. After access to the border was severely restricted, this assistance was most directly provided during the period from 1997 through 2001.<sup>627</sup> The materiel he provided ensured the very survival of the rebels as a viable armed group at several crucial times. The materiel provided contributed significantly to the crimes committed in Sierra Leone by the RUF, AFRC/RUF and/or Taylor's Liberian fighters, enabling these forces to carry out their campaign of terror as charged in Counts

<sup>622</sup> [REDACTED]; Accused, TT, 16 August 2009, pp. 26923-24; TF1-585, TT, 8 September 2008, pp. 15744-8; DCT-008, TT, 30 August 2010, pp. 47497-98.

<sup>623</sup> See Section III.B.

<sup>624</sup> Accused, TT, 26 November 2009, pp. 32551-60.

<sup>625</sup> [REDACTED]

<sup>626</sup> [REDACTED]

<sup>627</sup> See also TF1-388, TT, 16 July 2008, pp. 13850-51.

See also for example [REDACTED]

[REDACTED]; Exh. P-67, p. 3 and [REDACTED]

[REDACTED]; TF1-568, TT, 12 September 2008, pp. 16139-42, 16150-55; TF1-399, TT, 12 March 2008, pp. 5875-83; TF1-045, TT, 12 November 2008, pp. 20075-76; TF1-532, TT, 10 March 2008, pp. 5656-57; TF1-579, TT, 5 November 2008, pp. 19860-61; TF1-388, TT, 10 July 2008, pp. 13380-83; Exh. P-18, paras. 20, 21, 23, 47, 49, 193, 195, 202-217.

1-11 of the Indictment, in order to pillage the resources of Sierra Leone, in particular the diamonds, and to forcibly control the people and territory of Sierra Leone. During these time periods, the Accused provided a steady stream of materiel to these forces, with particularly large amounts interspersed amongst the relatively smaller shipments.

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207. Some 30 witnesses testified regarding this aspect of Taylor's participation, involvement, concerted action with the RUF, AFRC/RUF.<sup>628</sup> Of those, as noted above, some 12 were involved in some aspect of the shipment of that materiel during the Indictment period, including receiving the materiel from the White Flower complex, including the SSS building adjacent, from Taylor's farm in Gbarnga and from Taylor's ATU.<sup>629</sup> When the Chamber considers the totality of this evidence and the corroboration across the evidence, it becomes clear that the witnesses who testified on these matters for the Prosecution were telling the truth. For example, several witnesses corroborated each other on the fact that Sam Bockarie himself would tell others that the materiel came from Charles Taylor.<sup>630</sup> Similarly, witnesses corroborated each other on the fact that Issa Sesay also told others that he got materiel from Taylor.<sup>631</sup>

#### Types of materiel

208. The materiel Taylor provided included but was not limited to AK-47 rifles, AK rounds, GPMG and rounds, grenades, anti-tank mines, anti-personnel mines, RPGs and RPG rockets, mortars, M203 guns, GMG, G3, LAR, LMG, Beretta rifles, SMGs, and associated ammunition, BZTs, anti-aircraft guns, land mines and "chasers" aka weapons used to shoot down ECOMOG Alpha jets.<sup>632</sup>

<sup>628</sup> Those witnesses included: [REDACTED]; TF1-399, TT, 12 March 2008, pp. 5875-83; TF1-406, TF1-114, TF1-360, TF1-548, TF1-275, [REDACTED], TF1-532, TF1-337, TF1-334, TF1-516, TF1-567, TF1-388, TF1-367, TF1-375, TF1-568, TF1-585, TF1-263, TF1-579, TF1-045, TF1-358, TF1-274, [REDACTED], TF1-571, TF1-597, TF1-577, TF1-539, TF1-584, TF1-338, TF1-276, TF1-028, TF1-590.

<sup>629</sup> TF1-567, TF1-338, TF1-516, TF1-274, TF1-539, TF1-577, TF1-399, TF1-276, TF1-571, TF1-375, TF1-579, TF1-406.

<sup>630</sup> See for example TF1-571, TT, 9 May 2008, p. 9448; TF1-360, TT, 5 February 2008, p. 3118; [REDACTED]; TF1-577, TT, 9 June 2008, p. 11257; TF1-334, TT, 28 April 2008, p. 8666; TF1-567, TT, 2 July 2008, pp. 12912; TF1-388, TT, 16 July 2008, pp. 13823-24.

<sup>631</sup> TF1-567, TT, 2 July 2008, pp. 12914; TF1-276, TT, 23 January 2008, pp. 2031-32; [REDACTED]; TF1-571, TT, 12 May 2008, pp. 9506-07; TF1-337, TT, 5 March 2008, pp. 5337-38.

<sup>632</sup> TF1-567, TT, 2 July 2008, pp. 12828-29, 12838-43, 12867; TF1-577, TT, 4 June 2008, p. 11029; [REDACTED]; TF1-045, TT, 12 November 2008, p. 20078; TF1-338, TT, 1 September 2008, p. 15108; TF1-274, TT, 1 December 2008, p. 21369; TF1-577, TT, 4 June 2008, pp. 10922-25; TF1-399, TT, 12 March 2008, pp. 5875-76; TF1-568, TT, 17 September 2008, pp. 16417-19; TF1-532, TT, 10 March 2008, p. 5677 (initial invasion); TF1-337, TT, 4 March 2008, pp. 5251-54; TF1-334, TT, 29 April 2008, pp. 8919-20; see also Accused, TT, 15 September 2009, p. 28943; Exh. P-65, p. 00029778.

## Sources of materiel

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209. Taylor was able to bring materiel into Liberia throughout the initial conflict in Liberia and after he became President. The Accused's own admissions, as well as other evidence in the case, makes clear that throughout the conflict in Sierra Leone, Taylor possessed materiel which he used for his own purposes in Liberia and elsewhere and which he provided to his surrogate forces in Sierra Leone. His ability to continually replenish weapons and ammunition and maintain control over them before he assumed the Presidency of Liberia was acknowledged by ECOWAS in a series of official condemnations.<sup>633</sup> The evidence also makes clear that the Accused received this materiel from a variety of sources. One of those sources was the ECOMOG forces in Liberia, from whom Taylor bought arms and ammunition and who permitted him to receive and maintain materiel.<sup>634</sup> As discussed at paragraph 219 below, in one instance in late 1996, early 1997, Taylor was unsuccessful, defeated by the greed of those involved. Taylor also received materiel from or with the assistance of the governments of, or groups within, countries such as Burkina Faso—home of Taylor's long-time friend and supporter President Compaoré,<sup>635</sup> Libya,<sup>636</sup> and Ivory Coast,<sup>637</sup> including the use of false or fraudulent end user certificates.<sup>638</sup> During Taylor's presidency, the government of Niger also directly or indirectly assisted Taylor to receive materiel into Liberia.<sup>639</sup> On 22 December 1998, Taylor returned to Liberia from Burkina Faso where he met with, among others, the President of Niger. The same plane that brought him back to Liberia on that date then flew to Niger and brought Taylor a shipment of materiel.<sup>640</sup> It was on the same date that Taylor made a speech to the Liberian public

<sup>633</sup> Exh. D-385, pp. 7, 9, 13-14, 16, 23, 26, 35, 43-45, 47-48 esp. para. 15, 49 esp. paras. 22, 55, 57, 69, esp. para. 8, 71 esp. 5, 89, 91-2 esp. para. 64, Annex, 97 esp. para. 9, 102 esp. para. 15, 114 esp. para. 14, 118, 126 esp. para. 37, 136 esp. para. 37: the inadequate resources hampered ECOMOG ability to effectively prevent the movement of materiel into and around Liberia.

<sup>634</sup> Accused, TT, 3 August 2009, p. 25785; 16 November 2009, pp. 31757-60; DCT-172, TT, 17 August 2010, p. 46520: witness heard that ECOMOG sold ammunition; TF1-399, TT, 14 March 2008, pp. 6090-94, 6102-03, 6107.

<sup>635</sup> Exh. D-301, pp. 132, 146, 152, 154, 157, 159-60, 162; TF1-561, TT, 14 May 2008, pp. 9837-41, pp. 9886-89 and 15 May 2008, p. 9894; Exh. P-18, paras. 21, 30, 180, 194-95, 197 & 203-10; [REDACTED]

<sup>636</sup> [REDACTED]; Exh. D-301, pp. 132, 154, 159-60; TF1-561, TT, 14 May 2008, pp. 9837-39 and 15 May 2008, pp. 9894, 9900, 10028-30 and 19 May 2008, pp. 10218-19 and 21 May 2008, pp. 10386-87.

<sup>637</sup> [REDACTED]; Exh. D-301, pp. 132, 146, 149-50, 153-54, 159-60, 162; TF1-561, TT, 14 May 2008, pp. 9821-23, 9829-30, 9837-39 and 19 May 2008, pp. 10218-19 and 20 May 2008, pp. 10276, 10357; Exh. P-18, p. 34, paras. 195-96 and p. 36, para. 209.

<sup>638</sup> e.g. Exh. P-18, paras. 203-10.

<sup>639</sup> Exh. P-18, paras. 195-96, 211.

<sup>640</sup> Exh. P-18, para. 211.

stating that his government had taken the decision to close the border with Sierra Leone and to deploy security and paramilitary forces along the Sierra Leone/Liberia border.<sup>641</sup> No doubt Taylor was able to decide on this course of action because he knew his stockpile of arms and ammunition was being significantly increased. Of course, in reality, the border was only closed to those forces Taylor did not support, and was fully open to the AFRC/RUF. 36348

210. During his presidency, Taylor also received arms and ammunition through concessionaires such as Leonid Minin of Exotic and Tropical Timber Enterprise aka ETTE and Gus Kouwenhoven of Oriental Timber Company aka OTC.<sup>642</sup> And, as he never truly disarmed the NPFL, contrary to the lies he told the Court, Taylor also had use of those hidden materials. This was a disarmament that did not happen, leaving the NPFL and other factions with caches of arms and ammunition.<sup>643</sup> Even the program for the destruction of the materiel that was turned in was described as a “mess.”<sup>644</sup> Taylor also had the use of materiel he was able to induce ex-ULIMO fighters to hand over, either to him or to the RUF, AFRC/RUF forces in Sierra Leone.<sup>645</sup>

Locations from which arms, ammunition, other materiel sent to Sierra Leone

211. Throughout the conflict in Sierra Leone, materiel was sent to the RUF, AFRC/RUF from various locations in Liberia, including the Accused’s residences,<sup>646</sup> the Executive Mansion in Monrovia, other locations in Monrovia and its environs including Benjamin Yeaten’s residence,<sup>647</sup> from Bomi Hills, headquarters for the NPFL 6<sup>th</sup> Battalion,<sup>648</sup>

<sup>641</sup> Accused, TT, 5 August 2009, pp. 26115-6; Exh. D-141, p. 289.

<sup>642</sup> TF1-399, TT, 14 March 2008, pp. 6147-52; See also Exh. D-14; Exh. P-18, paras. 208, 211, 215-17.

<sup>643</sup> Exh. P-453, p. 4: describing the disarmament as a fiasco; see also TF1-561, TT, 19 May 2008, pp. 10207-8: explains disarmament was a game and that some of the materiel that was collected was given to the police and army; TF1-399, TT, 14 March 2008, pp. 6102-03, 6129-30; Exh. P-461C, p. 00043119 and Exh. P-461D, p. 00043261: cast substantial doubt on Taylor’s claim he had no materiel because he disarmed.

<sup>644</sup> Exh. D-204, p. 2 of 3.

<sup>645</sup> See paras. 235-237.

<sup>646</sup> [REDACTED]; TF1-399, TT, 12 March 2008, pp. 5871-75: witness took materiel from Taylor’s mansion in Gbarnga into Guinea for the RUF when ULIMO occupied Lofa County; TF1-579, TT, 5 November 2008, pp. 19837-42; TF1-561, TT, 15 May 2008, pp. 9897-99; TF1-399, TT, 12 March 2008, pp. 5882-83: ammo warehouse “attached to” Charles Taylor’s house, “that faced the other side”; TF1-585, TT, 8 September 2008, p. 15658; Accused, TT, 4 February 2010, pp. 34698-99: SSS building next to residence, with door through fence/wall dividing the two buildings. During direct examination of the Accused on 22 September 2009 at p. 29358, the Defence tried to discredit TF1-276’s testimony at 23 January 2008, p. 1977 where TF1-276 called the barrier around White Flower a fence. However, when Defence counsel asked the Accused if there was a fence around White Flower, the Accused answered yes, agreeing there was a fence. The Accused described a fence as what you put around a house. Taylor then said it was not just a fence but a wall.

<sup>647</sup> See for example, [REDACTED]; TF1-338, TT, 9 July 2008, pp. 13261-62.



from Lofa County,<sup>649</sup> from Buchanan port,<sup>650</sup> and, as noted in paragraphs 274-275, from caches where Taylor had hidden materiel he did not turn in for disarmament before he was President. For example, on at least three occasions, shipments of materiel from Buchanan port were transported by road to Taylor's warehouse in the SSS building adjacent to his residence in Monrovia, White Flower. The SSS building contained offices as well as the warehouse, and was connected to Taylor's White Flower compound by a door in the fence/wall surrounding the compound. From that warehouse, at least some of the Buchanan port materiel was sent on to the RUF and AFRC/RUF in Sierra Leone.<sup>651</sup> Subordinates of the Accused working at these storage facilities provided the materiel to the RUF and AFRC/RUF on the instructions of the Accused,<sup>652</sup> which were often communicated through a senior-level subordinate such as Benjamin Yeaten.

212. Taylor often used Foya as a transfer point, AFRC/RUF personnel sometimes boarding helicopters there for flights to Monrovia or other locations to obtain arms and ammunition and other supplies. Taylor also sent materiel and other support to Foya via helicopter. From Foya, the arms and ammunition would be offloaded and taken to Sierra Leone by vehicle.<sup>653</sup>

#### Modes of ingress of materiel into Liberia

213. As NPFL leader, Taylor was able to bring materiel into Liberia through border areas under his control.<sup>654</sup> After his Presidency, he imported across the borders by asserting sovereign control and circumventing the drastically reduced ECOMOG force that remained in parts of Liberia.<sup>655</sup> Taylor received shipments by land, air and by sea.<sup>656</sup>

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<sup>648</sup> TF1-045, TT, 12 November 2008, p. 20078; TF1-274, TT, 1 December 2008, p. 21307.

<sup>649</sup> See for example [REDACTED].

<sup>650</sup> TF1-399, TT, 13 March 2008, pp. 6078-83 and 14 March 2008, pp. 6147-52.

<sup>651</sup> TF1-399, TT, 13 March 2008, pp. 6078-83 and 14 March 2008, pp. 6147-52.

<sup>652</sup> TF1-399, TT, 12 March 2008, pp. 5882-83.

<sup>653</sup> TF1-571, TT, 9 May 2008, pp. 9453-57; TF1-516, TT, 8 April 2008, pp. 6954-56 and 9 April 2008, pp. 6980-81, 6987-94: Bockarie would use radio to request arms and ammunition from Monrovia, then the materiel would be brought by helicopter and offloaded for transport to Buedu, this same procedure remained in place until 2001; TF1-597, TT, 22 May 2008, pp. 10544-50; TF1-375, TT, 23 June 2008, pp. 12531-43.

<sup>654</sup> e.g. TF1-561, TT, 14 May 2008, 9821-22 and 19 May 2008, pp. 10218-19 and 20 May 2008, pp. 10276, 10357: shipment of arms via Ivory Coast in 1990; [REDACTED]; Exh. D-301, pp. 132, 146, 149-50, 153-54, 159-60, 162; TF1-399, TT, 14 March 2008, pp. 6110-12.

<sup>655</sup> See for example TF1-406, TT, 9 January 2008, pp. 825-26, 846-47: establishing ECOMOG presence at the time the Accused was President; TF1-399, TT, 14 March 2008, p. 6097.

<sup>656</sup> e.g. TF1-561, TT, 15 May 2008, pp. 9895, 9900-2, 10028-33: one shipment to RIA crashed and one was seized by UNAMSIL while witness was vice-president; Exh. P-118, p. 10 para. 21, p. 11 paras. 27 & 30, p. 34 paras. 193 & 196, p. 202; Exh. D-301, pp. 159-60; TF1-406, TT, 10 January 2008, pp. 914-16; TF1-567, TT, 2

For example, as noted above, during his Presidency, Taylor received at least three shipments of arms and ammunition provided through Buchanan Port.<sup>657</sup> Taylor used aircraft provided by other governments, from companies such as Weasua, and from individuals such as those to whom he granted resource concessions.<sup>658</sup>

214. Taylor's testimony that he would have been unable to bring materiel into the country or send it to his proxy forces in Sierra Leone is contradicted not only by those who actually moved the materiel into the country and out, but by ample documentation. Such evidence refutes Taylor's lies and shows that ECOMOG and the later UN observers were never sufficiently resourced to prevent the movement of materiel into Liberia. Lack of proper coordination between ECOMOG and the UN observers further hindered their effectiveness; as did movement of the majority of ECOMOG personnel to Sierra Leone following the Presidential elections in Liberia.<sup>659</sup> In addition, it is reasonable to conclude that Taylor was able to bribe ECOMOG to allow or facilitate the movement of materiel through whatever checkpoints ECOMOG had been able to establish, given that his NPFL had been able to bribe ECOMOG to sell materiel to it and that ECOMOG had also apparently sold or bartered other supplies as well.<sup>660</sup>

#### Routes and modes of transport to Sierra Leone

215. Materiel and other supplies were transported over various land routes to Taylor's NPFL and the RUF, and later, the AFRC/RUF in Sierra Leone.<sup>661</sup> Some of these, at least

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July 2008, pp. 12841-42; TF1-399, TT, 12 March 2008, pp. 5875-77: multiple trips after ULIMO disarmed, 13 March 2008, pp. 6077-80, 14 March 2008, pp. 6091-93, 6098-99, 6112; Exh. P-18, pp. 00004404-10, paras. 193, 202-234; Exh. P-461 B, p. 00043101: illustrates the Accused lied when he stated he had no materiel.

<sup>657</sup> TF1-399, TT, 14 March 2008, pp. 6147-52; TT, 13 March 2008, pp. 6083-4.

<sup>658</sup> TF1-561, TT, 14 May 2008, p. 9888; Exh. P-18, pp. 00004406-07, paras. 207-208, 210-211, 215, 217.

<sup>659</sup> See for example, Exhs. D-385; P-469; P-466; P-467; P-468: Despite 12,000 troops needed to carry out its mandate, ECOMOG as of October 1995 had only some 7269 troops deployed; Exh. P-470: by April 1996, ECOMOG strength up to 7,500 troops (but still under strength by several thousands); Exh. P-472 & D-385, p. 56, para 23: by November 1996, ECOMOG had only about 7500 troops less than 12,000 –the minimum pleaded for by ECOMOG commander of an optimum of 18,000 needed; Exh. P-473: From early 1997, ECOMOG remains at troop strength of only about 7500; Exh. P-474: By mid March 1997, ECOMOG numbers up to 10,000; Exh. P-475: By June 1997, ECOMOG troop strength had moved up to 11,000 personnel; Exh. D-62, p. 6: July 1997 4000 ECOMOG sent to Sierra Leone after Liberian elections; Accused, TTs, 18 November 2009, pp. 31960-62 & 21 January 2010, pp. 33868-78; Exh. D-81: Taylor agreed by November 1998, there were in the neighbourhood of 800 ECOMOG stationed primarily in Monrovia and into 1999 to about 400-500 remained in Liberia.

<sup>660</sup> e.g. TF1-399, TT, 14 March 2008, pp. 6097-101; Accused, TT, 3 August 2009, p. 25785; 16 November 2009, pp. 31757-60; see also DCT-299, TT, 18 June 2010, pp. 42867-68; 23 June 2010, pp. 43227-28; DCT-292, TT, 3 June 2010, 42051: if certain escorts were arranged then could pass through ECOMOG checkpoint if they existed in 1996.

<sup>661</sup> e.g. TF1-406, TT, 10 January 2008, pp. 911-16 (referring to Exh. P-25), 942-47; TF1-567, TT, 7 July 2008, pp. 13106-15; [REDACTED]; TF1-274, TT, 1 December 2008, pp. 21512-16; Exh. P-18, paras. 193, 215-17.

during the rainy season, were not passable by vehicle and civilians were forced to carry the materiel.<sup>662</sup> Helicopters were also used to transport materiel and other supplies. Offloaded, often in Lofa County, Liberia, they were then taken by land to the AFRC/RUF in Sierra Leone. The evidence proves that as early as 1998, helicopters were available and used to transport materiel and supplies to the AFRC/RUF. These helicopters included those from Weasua and the UN, as well as those used by Taylor's military and ATU.<sup>663</sup> Taylor even admitted that GoL had two Mi-2's as of 1999, and an Mi-8, although he lied or did not remember the actual time period during which he had the latter. Moreover, the NPP, Taylor's party, leased helicopter from South Africa for "party business."<sup>664</sup> Other aircraft was also used to bring the materiel to locations from which it could be transported overland into Sierra Leone.<sup>665</sup>

#### Time period when border access limited

216. In 1991 and 1992, Taylor provided the arms and ammunition that the NPFL and RUF used to fight ULIMO in Pujehun District, Sierra Leone, where ULIMO fought alongside GoSL force against NPFL and RUF.<sup>666</sup> During this period, the battles would sometimes move into Liberia as the combined ULIMO and GoSL forces pushed the combined NPFL and RUF out of Sierra Leone. But the NPFL and RUF were able to push the enemy forces back into Sierra Leone until some time in 1992, when ULIMO

<sup>662</sup> TF1-406, TT, 10 January 2008, pp. 914-16.

<sup>663</sup> e.g. TF1-338, TT, 1 September 2008, p. 15136 and 2 September 2008, pp. 15140, 15165-67 [REDACTED]; TF1-567, TT, 4 July 2008, pp. 12977, 12982-84: after Sankoh left for Sierra Leone post Lomé, Bockarie traveled back to Sierra Leone with materiel via one of Taylor's camouflaged helicopters; and 7 July 2008, pp. 13039-40: after hostage situation in 2000, witness went from Monrovia to Foya by helicopter with ATU inscription on it; TF1-571, TT, 9 May 2008, pp. 9448-49, 9452-58, 9462 and 12 May 2008, pp. 9503-10; TF1-516, TT, 8 April 2008, pp. 6947-53 and 9 April 2008, pp. 6980-81, 6987-88, 6994-95; TF1-597, TT, 22 May 2008, pp. 10570-72; TF1-375, TT, 23 June 2008, pp. 12531-43. See also TF1-015, TT, 8 January 2008, pp. 730-32; TF1-360, TT, 5 February 2008, pp. 3118-19; TF1-585, TT, 8 September, pp. 15683-85; TF1-045, TT, 13 November 2008, pp. 20209-14; TF1-406, TT, 10 January 2008, p. 887.

<sup>664</sup> Accused, TT, 9 November 2009, p. 31389. See also Accused, TT, 28 January 2010, p. 34432 and 19 August 2009, pp. 27202-03 and 14 September 2009, pp. 28802-03 and 28 October 2009, pp. 30602-07 and 20 January 2010, pp. 33724, 33730-32, 33734-35 and 1 December 2009, p. 32771.

<sup>665</sup> TF1-590, TT, 13 June 2008, pp. 11758-59, 11763-64, 11771-74: members of Liberian security and RUF were involved in logistics supply to RUF, including arms and ammunition. Around September 1998 the witness saw a plane arrive in Voinjama, arms and ammunition were offloaded from the plane onto RUF vehicles. Then RUF, SOD and SSS in the vehicles left on the road toward Sierra Leone and the witness heard other planes and was told they had logistics for Sierra Leone.

<sup>666</sup> See for example, TF1-360, TT, 4 February 2008, pp. 3032-33: the Accused brought materiel to the fighters who had been pushed back into Liberia and encouraged them to fight strongly to push ULIMO out of Liberia and he would give them ammunition to continue the war in Sierra Leone; [REDACTED].

moved into Liberia.<sup>667</sup> As noted above, ULIMO succeeded in severely limiting access across the Sierra Leone/Liberia border at different times in different areas—in Pujehun District and Grand Cape Mount County around the end of 1992, beginning of 1993,<sup>668</sup> and Kailahun District and Lofa County being cut off last around the end of 1993, beginning of 1994.<sup>669</sup> Taylor continued to directly supply the RUF overland from Gbarnga to Kailahun District in 1993.<sup>670</sup>

217. Such severe restriction on access to the border areas effectively cut off the direct supply lines from Taylor through Liberia to the fighters in Sierra Leone, thus greatly reducing his ability to directly provision them. During the time this access was so restricted, the RUF had to rely primarily on materiel captured from the enemy or the small amounts it could barter for.
218. However, while access through Lofa County was so restricted, Taylor devised other means of delivering materiel to his surrogate force there, the RUF. He instructed Zigzag Marzah aka Joseph Marzah to establish a relationship with persons in Guinea in order to take materiel into Guinea for the RUF. To that end, Taylor provided Marzah with a vehicle and the “start up” money to establish the relationship. In this way, Marzah was able to transport ammunition into Guinea and hand it over to one of Taylor’s Special Forces, Tiagan Wantee, who was at that time Taylor’s “ambassador to Guinea” for onward transit to Sierra Leone.<sup>671</sup> This was a similar method to that established with DCT-299 when she went to Guinea from Taylor’s controlled territory in Liberia by way of the NPFL stronghold in Danane, Ivory Coast.<sup>672</sup> Just as he did with Marzah, no doubt Taylor gave this trader the “start up” money and other assistance

<sup>667</sup> See for example, TF1-406, TT, 9 January 2008, pp. 800-01; TF1-045, TT, 12 November 2008, pp. 20077-85; [REDACTED]. See also Exh. D-45, reference on 25 June 2010, pp. 43514-16.

<sup>668</sup> TF1-406, TT, 14 January 2008, p. 1196; TF1-045, TT, 12 November 2008, p. 20074 and 14 November 2008, p. 20278: the witness was assigned to Pujehun District between 1991 and 1994, stated the border was cut off in 1992, his frame of reference being Pujehun District.

<sup>669</sup> TF1-406, TT, 9 January 2008, p. 805 and 10 January 2008, p. 976 and 14 January 2008, pp. 1196-97; [REDACTED]; TF1-388, TT, 9 July 2008, pp. 13290-92.

<sup>670</sup> TF1-274, TT, 1 December 2008, pp. 21383-88 and 5 December 2008, p. 21785: the witness sent messages to Taylor via Treetop and to Mekunagbe requesting ammunition; when the ammunition arrived, on Sankoh’s instruction the witness informed Treetop of its arrival. When the supply route was being pressured the materiel was transported through the jungle.

<sup>671</sup> TF1-399, TT, 12 March 2008, pp. 5872-75; [REDACTED]; TF1-388, TT, 16 July 2008, pp. 13931-32.

<sup>672</sup> DCT-299, TT, 17 June 2010, pp. 42799-802 and 23 June 2010, p. 43223.

to secure a trading alliance with Guineans in Guinea. From that alliance she was able to purchase or barter for ammunition which she then provided to the RUF.<sup>673</sup> In this way Taylor was able to indirectly provide some amount of materiel to his proxy force in Sierra Leone at a time when the direct overland route was not completely open to him.

#### 1996 to Coup in May 1997

*Taylor used one of his senior commanders in an attempt to supply RUF through ECOMOG*

219. In late 1996, Taylor attempted to obtain a large supply of materiel from ECOMOG to re-provision the RUF who had retreated to Pujehun District after being forced from Zogoda base in Kenema District. This attempt was ongoing at the time Sankoh signed the Abidjan Peace Agreement.<sup>674</sup> Taylor had instructed/given guidance to Foday Sankoh to use the Abidjan peace talks as a way to get outside Sierra Leone and get arms and ammunition.<sup>675</sup> However, Taylor was not convinced Sankoh could be trusted to use money given directly to him to purchase this materiel. In late 1996, Taylor became aware through his ongoing communications with the RUF, that a large group of RUF were trapped near the Pujehun District/Liberia border and out of ammunition. When confronted with the RUF dire need for ammunition, Taylor devised a means of supplying these RUF which allowed him to keep Sankoh only peripherally involved in the arrangement. Taylor used his connections with ECOMOG and one of his senior subordinates to strike a deal for this materiel. To that end, Taylor sent one of his senior NPFL Special Forces commanders, Saye Boayou, to Ivory Coast to meet with Sankoh.<sup>676</sup> Sankoh sent DCT-292, a member of the RUF external delegation, with Saye Boayou to meet with a senior ECOMOG official whom Taylor's subordinate Boayou

<sup>673</sup> DCT-299, TT, 17 June 2010, pp. 42824, 42817-20 and 18 June, pp. 42840, 42861, 42890, 42893, 42900-14: the witness had to pay 2 million Guinean francs to bribe a Guinean official to get the use of a certain area along the riverside between Sierra Leone and Guinea, and then could go there whenever she wanted, and she rented a house in Gueckedou so that people who came could stay there instead of at a hotel; & 21 June 2010, p. 42921: using her business alliance in Guinea to deal in ammunition in Guinea and take it across the border to the RUF until arrested & 23 June 2010, pp. 43229, 43231 & 24 June 2010, pp. 43347: exchange rate was 100 USD for 300,000 Guinea francs.

<sup>674</sup> [REDACTED]; DCT-292, TT, 1 June 2010, pp. 41756-68, 41771: witness, Joseph Brown, testified that Saye Boayou was involved in getting arms from ECOMOG to take to Mike Lamin at border, Saye Boayou in charge of contact with ECOMOG and arrangements for materiel and of money, & 2 June 2010, p. 41936-37: witness notes that Saye Boayou was an NPFL Special Forces commando, & 3 June 2010, p. 42046-50; DCT-215, TT, 25 March 2010, p. 37983-84: Saye Boayou was an NPFL Special Forces commander in Bong Mines; see also DCT-228, TT, 19 May 2010, p. 41167.

<sup>675</sup> See paras. 135-138.

<sup>676</sup> DCT-292, TT, 1 June 2010, p. 41755-56, 3 June 2010, pp. 42045-48; See also DCT-215, TT, 25 March 2010, p. 37984; DCT-228, TT, 19 May 2010, p. 41167.

knew and who would supply the ammunition,<sup>677</sup> as ECOMOG had done for Taylor's NPFL in the past.<sup>678</sup> During the travel from the Ivory Coast border to Monrovia, no ECOMOG checkpoints were encountered, only NPFL checkpoints. Taylor's senior commander and DCT-292 passed easily through the NPFL checkpoints.<sup>679</sup> It was Taylor's senior level subordinate, Saye Boayou, who was in charge of this transaction, i.e., DCT-292's "director" for this operation, from setting up the meetings with the ECOMOG official, to handing over the money and arranging the transfer of the ammunition to the RUF at the border.<sup>680</sup> The attempt was unsuccessful and the RUF forces in Pujehun were forced to cross over into Liberia.<sup>681</sup>

Taylor facilitated provision of arms and ammunition through ULIMO

*a. Money and guidance to Sankoh to buy materiel from ULIMO*

220. The evidence strongly suggests that Taylor provided money and guidance to Sankoh in 1996 to obtain materiel from ULIMO. Among his other schemes to provide materiel to his proxy forces in Sierra Leone, the RUF and AFRC/RUF, during the time the border was not easily accessible to him was, no doubt, the option of obtaining that materiel from ULIMO/ex-ULIMO fighters. Therefore, Taylor would have included that option in the meetings he had with members of the RUF external delegation, and one can reasonably conclude, with Sankoh. In his 26 September 1999 Salute Report to Sankoh, Bockarie<sup>682</sup> notes that during Sankoh's November 1996 trip to Sierra Leone, Sankoh gave Bockarie instructions to obtain materiel from ULIMO. Bockarie reports that he used \$7,000, presumably given to him by Sankoh on that trip, to purchase that materiel.<sup>683</sup> It is no coincidence that those instructions and the \$7,000 came to Bockarie well after Taylor's contacts with the RUF delegation in Ivory Coast, including his meeting with them in Abidjan in about December 1995, at which time he gave them some 10 million CFA.<sup>684</sup> Securing materiel from ex-ULIMO fighters provided a two pronged benefit to Taylor – disarm ex ULIMO fighters who could be potential enemies

<sup>677</sup> DCT-292, TT, 1 June 2010, pp. 41752-53, 41756-57 and 3 June 2010, pp. 42049-50.

<sup>678</sup> Accused, TT, 3 August 2009, p. 25784-85.

<sup>679</sup> DCT-292, TT, 3 June 2010, p. 42051.

<sup>680</sup> DCT-292, TT, 1 June 2010, pp. 41756-67.

<sup>681</sup> [REDACTED]; DCT-292, TT, 1 June 2010, pp. 41756-68, 41771: the witness, Joseph Brown, Saye Boayou involved in getting arms from ECOMOG to take to the RUF at the border; and 3 June 2010, pp. 42046-50.

<sup>682</sup> See also [REDACTED]; DCT-172, TT, 06 July 2010, p. 43775; DCT-306, TT, 14 April 2010, p. 39021.

<sup>683</sup> Exh. D-9, p. 1. See also TF1-367, TT, 1 September 2008, pp. 15013-16.

<sup>684</sup> [REDACTED]; TF1-367, TT, 20 August 2008, p. 14157.

and/or send them to fight alongside the AFRC/RUF and supply his Liberian forces and his proxy Sierra Leone forces, the AFRC/RUF, with that materiel, thus conserving some of his own stores.

*b. Existing cooperation with Alhaji Kromah's ULIMO-K*

221. Contrary to Taylor's testimony, from early on he cultivated a cooperative relationship with Alhaji Kromah, who became the leader of ULIMO-K. As early as 1993, the Accused and ULIMO leader Alhaji Kromah were working in cooperation on various matters. After the signing of the Cotonou Agreement on 25 July 1993,<sup>685</sup> Taylor and Kromah worked together to resolve disputes over allocation of four Cabinet posts in the Liberia National Transitional Government.<sup>686</sup> Taylor and Kromah also worked together cooperatively pursuant to the provisions of the Akosombo Agreement, signed on 12 November 1994, which allowed each of their factions a seat on the five-member Council of State and allowed Taylor and Kromah to jointly nominate a representative to fill one of the remaining seats.<sup>687</sup> They in fact did jointly appoint a representative for that seat, Tamba Tailor.<sup>688</sup>
222. From 30 November 1995, at the latest, through the elections in Liberia in July 1997, marked a period of even greater cooperation between Taylor's NPFL and Alhaji Kromah's ULIMO, now the ULIMO-K faction. In November 1995, Taylor and Kromah entered into a Memorandum of Understanding (MOU).<sup>689</sup> This MOU, among other provisions, agreed the two groups would cease all hostilities against each other and guaranteed freedom of movement for "civilians" and "commercial activity" in the two groups' respective areas of control.<sup>690</sup> The MOU prompted the faction leaders to reopen major roads linking Monrovia to Lofa County through Bong County.<sup>691</sup> This cooperation with Alhaji Kromah ensured Taylor once again had access to the border with Sierra Leone. In April 1996, Taylor and Kromah once more demonstrated their cooperative efforts, fighting jointly against Roosevelt Johnson's ULIMO-J, during

<sup>685</sup> Exh. D-385, pp. 27, 34.

<sup>686</sup> Accused, TT, 14 January 2010, pp. 33316-17: Kromah and the Accused cooperated politically on four cabinet posts.

<sup>687</sup> Exh. D-385, pp. 58, 61 Part II, Political Issues, Section A (i)), pp. 62-63. See also Accused, TT, 14 January 2010, pp. 33318-19.

<sup>688</sup> Exh. D-385, p. 64, Section A, See also Accused, TT, 14 January 2010, p. 33321

<sup>689</sup> Exh. P-425, para. 6. See also Accused, TT, 14 January 2010, p. 33323.

<sup>690</sup> Exh. P-425, para. 6.

<sup>691</sup> Exh. P-425, para. 7.

which their subordinates and other groups engaged in severe and widespread destruction and looting in Monrovia, which was condemned by ECOWAS.<sup>692</sup>

#### Junta Period

223. [REDACTED]  
[REDACTED]<sup>693</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>694</sup>

Taylor met that desperate need; the arms and ammunition sent by Taylor in different shipments allowed the Junta to hold on to key areas in Sierra Leone for several additional months.

224. [REDACTED]<sup>695</sup> Taylor complied with the request. One shipment of ammunition Taylor sent got stuck near Buedu before reaching Bockarie in Kenema. Daniel Tamba aka Jungle, a member of Taylor's SSS, conveyed this information to Bockarie. Bockarie then sent his subordinates to Pendembu to meet Jungle and another of Taylor's Liberian subordinates called Senegalese. Civilians were used to transfer the ammunition from the larger vehicle on to other vehicles. The ammunition – boxes of GPMG rounds, AK-47 rounds and RPG rockets – was then taken on to Bockarie in Kenema. Bockarie sent some of it to Superman in Freetown to be used in an anticipated ECOMOG attack against Freetown.<sup>696</sup>

225. Later in 1997, Taylor sent the Junta another shipment by road, which was paid for with diamonds. Memuna Deen, an RUF radio operator based in Monrovia, and Fonti Kanu, the Battalion commander for Daru, travelled from Monrovia to Daru with ammunition provided by Taylor for AKs, GMGs and RPGs. Bockarie went to pick them up in Daru

<sup>692</sup>Exh. D-385, p. 85, para. 12, in particular, p. 88, paras. 39-43. Accused, TT, 17 November 2009, pp. 31878-80.

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<sup>696</sup>TF1-388, TT, 9 July 2008, pp. 13344, 13353-58 and 16 July 2008, pp. 13828, 13832-33 and 18 July 2008, pp. 14039-40: the witness was in Kenema with Bockarie during this period; TF1-375, TT, 23 June 2008, pp. 12487-92, 12507; TF1-388, TT, 10 July 2008, pp. 13383-90: witness identified Senegalese as one of the escorts working for Taylor, along with Jungle, Zigzag, Sampson, Junior, who would come to Bockarie with supplies including arms and ammunition. See also TF1-375, TT, 28 August 2008, p. 14836: There were two Senegalese; DCT-008, TT, 31 August 2010, pp. 47647-48: the nickname Senegalese is not unusual, in Liberia tall people are given the nickname "Senegalese"; TF1-375, TT, 24 June 2008, pp. 12567-68. See further TF1-532, TT, 7 April 2008, pp. 6727-28, 6731-32: once the AFRC and RUF joined and were in Freetown, Jungle brought 50 boxes of ammunition for AKs, RPGs and GMGs to Buedu.



and later brought the material to Kenema. Fonti Kanu was later killed by Issa Sesay after being handed over to the RUF by Taylor's subordinates in Liberia.<sup>697</sup>

The Magburaka Shipment (October 1997)

226. In August 1997, Johnny Paul Koroma sent a delegation to Taylor in Monrovia to request materiel and his recognition. Koroma sent Taylor a letter requesting that Taylor assist the AFRC Government in gaining recognition from the ECOWAS States. In Monrovia, the delegation was able to pass through Taylor's customs and depart the airport with no difficulty. They met with officials of Taylor's government, John T. Richardson and the Foreign Minister, Monie Captan. Captan indicated that he shared their disappointment with the Government of Ahmed Tejan Kabbah and that he would see what he could do to transmit the letter to Charles Taylor. Shortly thereafter, Monie Captan relayed to the delegation that he had transmitted the letter to Charles Taylor and that Taylor was willing to work with the ECOWAS committee to recognize the Junta. Captan also said that Taylor had been in touch with Johnny Paul Koroma, that they should return to Freetown, and that their expenses would be paid and escort to the airport provided. The delegation was escorted by Taylor's government security back to the airport, encountering no difficulties on the way. Upon returning to Freetown, the delegation briefed Johnny Paul Koroma on their trip and Koroma confirmed that Charles Taylor had spoken to him and given assurances that Taylor would work with Koroma for the Junta Government to be recognized.<sup>698</sup>
227. When the delegation arrived back in Freetown, Taylor's representative, Ibrahim Bah, was already there for meetings with Junta leaders. Bah met with Sam Bockarie, explaining that Taylor had given him a directive to come to Freetown and meet with Johnny Paul Koroma, and that he was in Freetown to help the Junta get arms and ammunition. Bah asked Bockarie whether mining operations were going on in Kono and whether they had diamonds to pay for the shipment. After meeting with Bockarie, Bah met with Johnny Paul Koroma. Bah said that, on the instructions of Taylor, 90

<sup>697</sup> TF1-274, TT, 2 December 2008, pp. 21432-36; [REDACTED]

<sup>698</sup> [REDACTED]; TF1-597, TT, 21 May 2008, pp. 10452-58; see also Accused, TT, 2 November 2009, pp. 30824, 30831.

carats of diamonds would be needed for the shipment, as well as \$90,000 for the flight.<sup>699</sup>

228.

[REDACTED]

[REDACTED].<sup>700</sup> When the issue of lack of ammunition was raised at the meeting, Koroma briefed the council that he was in the process of arranging for the Junta to receive a shipment of ammunition and that they had to obtain 90 carats in diamonds to pay for these materials. Koroma also raised the fact that they needed \$90,000. The decision was taken to obtain this quantity of diamonds and money, which was subsequently obtained. Gullit, who was in charge of mining in Kono, brought the diamonds from Kono. Bah was given the diamonds and the \$90,000 and returned to Monrovia with them.<sup>701</sup>

229. On 20 September 1997, the Accused left Monrovia for a multi-State trip. Taylor first stopped in South Africa, where Nico Shefer was in residence as Taylor's honorary consul to South Africa.<sup>702</sup> Fred Rindel - who had aircraft available to him and was to later train Taylor's Anti-Terrorist Unit aka ATU, was also based in South Africa.<sup>703</sup> Both Shefer and Rindel were involved with "gun running" and diamonds.<sup>704</sup>

230. Taylor took the diamonds given to him by the Junta on this trip in order to arrange the later shipment of materiel. That is how he came to possess one or more diamonds which he gave to Naomi Campbell after a dinner hosted by Nelson Mandela and which he and Campbell attended. In addition to the Accused and Naomi Campbell, other

<sup>699</sup>

[REDACTED]; DCT-172, TT, 7 July 2010, pp. 43862-63. See also TF1-532, TT, 10 March 2008, pp. 5705-07 and 11 March 2008, pp. 5712-15: witness speaks of another meeting at which Bah represented Taylor in reiterating that the RUF and AFRC were to work together.

<sup>700</sup>

<sup>701</sup>

[REDACTED]; TF1-532, TT, 11 March 2008, pp. 5719-21, 5724-28, 5733-34 and 4 April 2008, pp. 6641-47: witness also testified that these matters were discussed at Supreme Council meetings; DCT-172, TT, 7 July 2010, pp. 43862-63.

<sup>702</sup> Accused, TT, 15 February 2010, p. 34913 and 16 February 2010, pp. 35109-10 and 28 January 2010, p. 34428 and 19 November 2009, p. 32214 and 26 November 2009, pp. 32560-62; Exh. P-18, para. 189.

<sup>703</sup> Accused, TT, 25 August 2009, pp. 27646-52 and 18 November 2009, pp. 31997-04; Ellis, TT, 16 January 2008, pp. 1444-46; Exh. P-18, paras. 186-88.

<sup>704</sup> Exh. P-18, paras. 188-90; Exh. P-19, p. 26, footnote 51.

guests included Mia Farrow and Carole White, Campbell's then agent.<sup>705</sup> Ms. Farrow and Ms. White were no more conversant with Charles Taylor, rough diamonds, the diamond wealth of Liberia, the conflict in Sierra Leone, or that diamonds were being used to fuel that conflict, than was Ms. Campbell.<sup>706</sup> During the dinner, Campbell explained that Taylor was going to give her diamonds and he nodded.<sup>707</sup> Campbell indicated Taylor's people were bringing the diamonds to her that same night. After Campbell had retired for the evening but while her agent was awake and had not readied herself for bed, men brought Campbell "dirty looking stones."<sup>708</sup> The next morning, Campbell told Mia Farrow that men sent by Charles Taylor had given her a huge diamond.<sup>709</sup> Campbell gave the "stones" to Jeremy Ractliffe.<sup>710</sup>

231. The testimony of Mia Farrow and Carole White provides the reasonable explanation for this incident; the Accused, in an attempt to impress or win favour with an internationally known model, gave her diamonds. Naomi Campbell's testimony about this incident defies belief:

- that she would allow entry to complete strangers late at night;
- that she would accept a pouch from them with no explanation;
- that she would not look into the pouch to see the contents when she received it; and
- that she would keep "dirty stones" instead of throwing them away.

232. It further defies belief that Ms. Farrow and/or Ms. White would conclude that the "dirty stones" were obviously diamonds and that it was obviously Charles Taylor who had given the "dirty stones" to Campbell. It also defies belief that, with supposedly no knowledge of what the "dirty stones" were, she would give them to Jeremy Ractliffe instead of throwing them away.<sup>711</sup>

<sup>705</sup> Mia Farrow, TT, 9 August 2010, pp. 45649-50; Carole White, TT, 9 August 2010, pp. 45752-69; Naomi Campbell, TT, 5 August 2010, pp. 45462-516; Exh. D-141, p. 205; Accused, TT, 14 January 2010, pp. 33336-40.

<sup>706</sup> Mia Farrow, TT, 9 August 2010, pp. 45659, 45709; Carole White, TT, 9 August 2010, pp. 45802-03; Naomi Campbell, TT, 5 August 2010, p. 45476.

<sup>707</sup> Carole White, TT, 9 August 2010, pp. 45763-64.

<sup>708</sup> Carole White, TT, 9 August 2010, pp. 45768-71: the witness was not prepared for sleep at this time and it is highly unlikely she was in her room in the dark, it is reasonable that her light was on and visible from the outside; Naomi Campbell, TT, 5 August 2010, pp. 45469-70.

<sup>709</sup> Mia Farrow, TT, 9 August 2010, p. 45653.

<sup>710</sup> Naomi Campbell, TT, 5 August 2010, pp. 45472-75.

<sup>711</sup> Naomi Campbell, TT, 5 August 2010, pp. 45469-72.

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233. From South Africa, Taylor went on to visit among other countries, Burkina Faso, Libya and stopped in Niger.<sup>712</sup> All States which were involved or used in supplying him with arms and ammunition before and/or during his Presidency. He returned to Monrovia and addressed the nation about his trip on 3 October 1997.<sup>713</sup> The Accused used this trip as the perfect opportunity, and diplomatic cover, to arrange the shipment of arms and ammunition to the Junta. And, indeed, in October, the promised shipment of arms and ammunition arrived at Magburaka.<sup>714</sup> Fonti Kanu was on the plane that brought the shipment to Magburaka.<sup>715</sup> Whether the shipment passed through Monrovia or came directly from Burkina Faso, the evidence makes clear it was the Accused who arranged it.

234. The quantity of materiel brought was “huge,” including arms and ammunition and weapons to bring down aircraft.<sup>716</sup> This materiel was distributed to AFRC and RUF forces<sup>717</sup> and was used to reinforce these forces in the fight against ECOMOG.<sup>718</sup> Part of the materiel in this shipment, including one of the two anti-aircraft weapons, was sent to Sam Bockarie,<sup>719</sup> and the rest went to Freetown.<sup>720</sup> The shipment was central to prolonging the life of the Junta.

Taylor continued to use ULIMO to supply materiel to AFRC/RUF

235. After he became President, Taylor set other actions into motion to access arms and ammunition from former ULIMO fighters, both for the use of his subordinates in Liberia and also for the use of his surrogate forces in Sierra Leone, the AFRC/RUF. To that end, Taylor turned to his SSS Assistant Director for Operations, TF1-406, an ex-

<sup>712</sup> Exh. D-141, pp. 203-07; Accused, TT, 14 January 2010, p. 33335 and 28 July 2009, p. 25430.

<sup>713</sup> Exh. D-141, p. 203. See Accused, TT, 28 July 2009, pp. 25430-31.

<sup>714</sup> [REDACTED]. See also TF1-597, TT, 21 May 2008, pp. 10458-59, 10479-82; TF1-532, TT, 11 March 2008, pp. 5712-14, 5719-21, 5724-28, 5733-34; Koroma told subordinates to go to Magburaka as his brother Taylor was sending ammunition; TF1-532, TT, 4 April 2008, pp. 6641-47, TF1-334, TT, 28 April 2008, pp. 8686-93; Magburaka arms shipment was around October 1997; TF1-045, TT, 12 November 2008, p. 20152; TF1-597, TT, 21 May 2008, pp. 10455-59.

<sup>715</sup> TF1-597, TT, 21 May 2008, pp. 10458-59, 10478-82; [REDACTED].

<sup>716</sup> [REDACTED]; TF1-532, TT, 11 March 2008, pp. 5724-28; shipment also included GMG rounds and rounds for the anti-aircraft weapons; TF1-597, TT, 21 May 2008, p. 10479; TF1-334, TT, 28 April 2008, pp. 8703-04.

<sup>717</sup> TF1-334, TT, 28 April 2008, pp. 8686-93; TF1-360, TT, 5 February 2008, p. 3092.

<sup>718</sup> TF1-334, TT, 28 April 2008, pp. 8686-93; TF1-597, TT, 21 May 2008, pp. 10479-80.

<sup>719</sup> [REDACTED]; TF1-532, TT, 11 March 2008, pp. 5733-34.

<sup>720</sup> [REDACTED]. See also TF1-367, TT, 20 August 2008, p. 14121.

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ULIMO commander whom Taylor placed in a variety of responsible positions, including SSS Assistant Director of Operations. Later Taylor made Sherif a member of his immigration service, which was tasked with gathering intelligence. Still later, he made him Assistant Chief of Staff and then Chief of Staff of the Army Division, a critical position during Taylor's conflict with LURD. Sherif also travelled with another of Taylor's trusted commanders, Roland Duoh, to see Taylor while he was in exile in Nigeria.<sup>721</sup>

236. At the end of 1997, early 1998, Taylor gave Sherif the tasks of getting materiel from ex-ULIMO-K members, encouraging the ULIMO fighters to sell weapons directly to the RUF, and opening a corridor between Lofa County and AFRC/RUF-held territories in Sierra Leone so that the AFRC/RUF could buy arms and ammunition from former ULIMO fighters.<sup>722</sup> Taylor's actions were assisted by the long-term cooperation between himself and the leader of ULIMO-K, Alhaji Kromah. Sherif successfully carried out the mission given him by Taylor; as a result, large amounts of materiel were initially turned over to Taylor and then by Taylor's instruction passed on to the AFRC/RUF. In addition, a large number of former ULIMO sold their arms and ammunition to the AFRC/RUF.<sup>723</sup>
237. To further advance his plan, Taylor provided Bockarie with money to purchase those materials from former ULIMO,<sup>724</sup> money which was used for these purposes even after the mid-February 1998 Intervention. Taylor also made his subordinate commanders

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<sup>721</sup> TF1-406, TT, 9 January 2008, pp. 811-14 and 10 January 2008, p. 895 and 11 January 2008, pp. 1055-61; Exh. D-141, p. 333: showing the positions in Taylor's SSS, with Captain "Vamayan Sheriff" listed as Assistant Director for Operations. Contrary to the Accused's testimony, TT, 24 August 2009, pp. 27427-28, stating that Ocebio Dehme was chief of protective security, Dehme is not listed among the leaders of SSS in this exhibit; See also Accused, TT, 15 July 2009, p. 24547: describing the role of Commissioner of Immigration and Naturalization as part of the security establishment; Accused, TT, 18 August 2009, p. 26976: the Accused agrees he sent Varmuyan to Immigration; Accused, TT, 31 August 2009, pp. 28100-01: the Accused admits Sherif was later Deputy Chief of Staff of Army Division, a major general, the second most senior general in the Army Division of the government forces; Accused, TT, 27 October 2009, p. 30455: stating Roland Duo was chief of staff, Navy Division; Accused, TT, 18 November 2009, pp. 32044-46: stating Varmuyan Sherif and Roland Duoh, a navy commander, made a brief visit to him in Calaba, Nigeria.

<sup>722</sup> TF1-406, TT, 9 January 2008, pp. 810, 812-13, 851-57: Taylor's instruction was that he "...should go and open corridor... All the area should be free. Those who have their arms they can take their arms if they want to go across Sierra Leone to buy and they were giving some money to Sam Bockarie and Sam Bockarie will be buying arms and ammunition on their own ... They may be having some arms there and Sam Bockarie will send whoever he wants to send, whoever had the arms and ammunition, to travel through Lofa areas to buy and the territory should be free...."; See also Exh. P-27 A, Exh. 27 B.

<sup>723</sup> TF1-406, TT, 10 January 2008, pp. 819-23, 851-56, 891-92; Exh. P-27 A; Exh. P-27 B. See also TF1-274, TT, 2 December 2008, pp. 21524-29 and TT, 3 December 2008, pp. 21539-40.

<sup>724</sup> TF1-406, TT, 9 January 2008, p. 852 and 10 January 2008, pp. 1016-17 and 14 January 2008, p. 1136; TF1-274, TT, 2 December 2008, pp. 21526-27: stating the Accused gave Bockarie money almost every time Bockarie went to Monrovia.

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238. It is true that the AFRC/RUF were able to capture some arms and ammunition from ECOMOG forces in Sierra Leone.<sup>729</sup> However, as discussed below, the AFRC/RUF depended overwhelmingly on Taylor's direct provisioning. The Black Guard, in its 1999 report to Foday Sankoh, authored by Junior Vandi, a Black Guard commander,<sup>730</sup> noted that Taylor summoned Bockarie "to report" "immediately" after the Intervention, "seriously briefed" Bockarie, told him to keep up the struggle until the Leader returns, and gave full assurance and promise to give his full support to the RUF. The report also noted that "[f]rom that point, the President [Taylor] gave huge quantity of logistics

<sup>726</sup> Some witnesses continued to refer to Taylor's subordinates as NPFL after that force had officially been disbanded – a reference that is logical and understandable as many of Taylor's NPFL continued to serve him after he became President and interact with the RUF and later, AFRC/RUF. It was an easy and familiar way to refer to Taylor's subordinates. See TF1-367, TT, 20 August 2008, pp. 14149.

<sup>727</sup> TF1-367, TT, 20 August 2008, pp. 14148-56: the witness was sent to carry out this tasking.

<sup>728</sup> See for example,

<sup>729</sup>TF1-375, TT, 23 June 2008, pp. 12552-54; during one operation, AFRC/RUF captured ammunition and weapons from the Guineans in late 1998.

TT, 2 July 2008, p. 12903.

(Ammunition) to the High Command for us to start repelling the ECOMOG advancement or to contain situation.”<sup>731</sup>

239. After the Intervention and throughout the remaining time Bockarie was the commander of the AFRC/RUF on the ground in Sierra Leone, Bockarie received substantial amounts of arms, ammunition and other assistance from Taylor during his numerous trips to Liberia to meet with Taylor and from Taylor’s subordinates who brought materiel to Bockarie. These trips usually involved radio or satellite phone communications to convey shortages and to arrange for transport of the materiel, either by Bockarie or his representatives travelling to Monrovia or other locations in Liberia, or by Taylor’s subordinates bringing the materiel to Sierra Leone. The communications often involved stations Base 1 and 020 in Liberia, Base 1 being the station for Benjamin Yeaten and 020 being the station for Charles Taylor. Station 020 would receive requests for materiel and would respond regarding the movement of the helicopter to bring the materiel or to give notice of who would be bringing materiel; Station 020 would other times reinforce messages from Base 1.<sup>732</sup> Requests for materiel were never

<sup>731</sup> Exh. P-67, pp. 00009674-75. See also [REDACTED]

[REDACTED]; TF1-577, TT, 4 June 2008, p. 11028; TF1-334, TT, 18 April 2008, pp. 8010-

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<sup>732</sup> See for example TF1-516, TT, 8 April 2008, pp. 6941, 6946-57, 6965 and 9 April 2008, pp. 6981, 6987-92, 7001; TF1-114, TT, 15 January 2008, pp. 1279-82, 1284-93: during rainy season in July 1998, the witness saw Liberians wearing yellow Navy Ranger and NPFL Navy Ranger polo shirts bringing ammunition to Bockarie in Buedu and in the same month Mosquito came at night with materiel accompanied by Liberians led by General Fayia, commander at Foya. See also Accused, TT, 18 November 2009, pp. 32041-42 and 17 November 2009, p. 31890: Roland Duoh was the Navy Division commander; Accused, 2 February 2010, pp. 34634-36: identifying Roland Duoh in Exh. P-493B, D, & E, which are pictures of Roland Duoh with armed personnel wearing yellow t-shirts with “Navy Rangers” on them. See further TF1-590, TT, 13 June 2008, pp. 11758, 11771-72: in 1998 witness heard planes overhead at Voinjama and was told these planes were bringing materiel for Sierra Leone and on one occasion in September 1998 the witness saw a plane on the ground in Voinjama and boxes were being offloaded into RUF vehicles, the witness was told that the boxes contained ammunition and other things; TF1-579, TT, 5 November 2008, pp. 19830-42: witness took materiel to Bockarie in Buedu twice in latter part of 1998, first time was in September around the time of the Roosevelt Johnson incident when Jungle, Weah and the witness took materiel to Bockarie in Buedu including grenades, LAR, rockets, AK-47 rounds, RPG; the second time was about two months later when the witness, Zigzag Marzah, [Sampson] Weah, Jungle and bodyguards took the same type of materiel but also including mortar guns. Yeaten got the materiel from the warehouse on the left side of Taylor’s house; TF1-045, TT, 13 November 2008, pp. 20203-04, 20208-11, 20214-17: witness was in Buedu with AFRC/RUF about two months [after arriving there shortly after fleeing from Kenema after the Intervention], witness then assigned to Baiima with other AFRC/RUF personnel, while at Baiima in 1998, Bockarie traveled to Monrovia and to Gbarnga to see Taylor to supply the needs of the AFRC/RUF for ammunition, arms, and medicines. During this same time, Jungle, who said he came from Taylor with materiel, brought materiel to Buedu; Jungle said that Bockarie was giving diamonds for the materiel; TF1-388, TT, 10 July 2008, pp. 13384-92, 13412-15: Bockarie trips to Taylor to get materiel and other supplies in 1998 and Taylor’s subordinates bringing materiel and other supplies in 1998, including in late 1998 around December; TF1-532, TT, 24 April 2008, pp. 8504-05, 8509: in a meeting in early August 1999, Taylor said he had supported/coordinated supply of arms and ammunition to the AFRC/RUF.

denied, only sometimes delayed.<sup>733</sup> Bockarie was usually accompanied by his security personnel and sometimes by other subordinates.<sup>734</sup> Bockarie never needed travel documents or received exemptions from the travel ban.<sup>735</sup> As the Accused admitted in Court, Bockarie could not travel to Liberia, to Monrovia without Taylor being aware of it.<sup>736</sup> [REDACTED]

[REDACTED].<sup>737</sup>

240. On returning from these trips to Monrovia, Bockarie would bring back arms and ammunition such as RPG rockets, BZTs, land mines to use against armoured cars and tanks, foot mines to use against human beings, AK rounds, hand grenades and other supplies.<sup>738</sup> Upon his return, Bockarie notified commanders who came or sent their representatives to Buedu from the front lines to pick up the materiel.<sup>739</sup> Similarly when Taylor's subordinates such as Dopoe Menkarzon or Zigzag Marzah or Jungle brought materiel to Buedu, this materiel was also distributed to the front line commanders as needed.<sup>740</sup> Bockarie was aware of the needs of the commanders through regular radio communications. For example, after the AFRC/RUF was driven out of Koidu town by ECOMOG between April to June 1998, Bockarie maintained regular communications

<sup>733</sup> TF1-516, TT, 8 April 2008, p. 6965.

<sup>734</sup> TF1-274, TT, 2 December 2008, pp. 21516, 21520, 21522-24; this witness made two trips with Bockarie to Monrovia, Bockarie would meet with the Commander in Chief, i.e., Taylor; TF1-571, TT, 9 May 2008, pp. 9461-66.

<sup>735</sup> TF1-568, TT, 12 September 2008, pp. 16136-39; Accused, TT, 28 January 2010, p. 34342; Exh. P-484, pg. 3; travel ban exemptions provided for Sankoh and Koroma, but not Bockarie.

<sup>736</sup> Accused, TT, 5 August 2009, pp. 26011-13, 26030.

<sup>737</sup> [REDACTED]

<sup>738</sup> TF1-571, TT, 9 May 2008, pp. 9461-66; TF1-516, TT, 8 April 2008, pp. 6947-53, TT, 9 April 2008, pp. 6980-81, 6987-92; TF1-568, TT, 12 September 2008, pp. 16136-43, TT, 15 September 2008, pp. 16165-66, 17 September 2008, pp. 16451-16452, 16465-16470; TF1-577, TT, 4 June 2008, pp. 11013-14, 11021-29; TF1-585, TT, 5 September 2008, pp. 15617-22, TT, 8 September 2008, pp. 15664, 15657; TF1-567, TT, 2 July 2008, p. 12904; TF1-274, TTs, 2 December 2008, pp. 21521, 21536 & TT, 3 December 2008, p. 21536; TF1-375, TT, 23 June 2008, p. 12524, 12529; TF1-567, TT, 2 July 2008, pp. 12906, 12912; TF1-274, TT, 2 December 2008, pp. 21515, 21523, 21535-36; TF1-584, TT, 19 June 2008, pp. 12236-37; this witness, who was Superman's radio operator, testified that Jungle brought material from Foya to Buedu and she later learnt that it was arms and ammunitions when they were transported to the Kono axis; TF1-388, TT, 18 July 2008, pp. 14035-36; [REDACTED];

TF1-367, TTs, 20 August 2008, pp. 14161-65, 14181-82 & 21 August 2008, pp. 14231-33; witness accompanied Bockarie on one trip and Bockarie told witness that he had met with the Pa, i.e. Taylor, and they brought back a truck full of material; TF1-585, TT, 8 September 2008, pp. 15652-64, 15682.

<sup>739</sup> TF1-516, TT, 9 April 2008, p. 6981; see also TF1-274, TT, 2 December 2008, pp. 21455-57.

<sup>740</sup> TF1-585, TT, 8 September 2008, pp. 15657-58, 15674-76; TF1-516, TT, 8 April 2008, pp. 6955-58; TF1-388, TT, 10 July 2008, pp. 13392-93.



with the AFRC/RUF camp structure surrounding Koidu. General subjects included directives from Bockarie, and materials requested by Mingo aka Superman.<sup>741</sup> 36365

241. Bockarie, these commanders and their subordinates used the arms, ammunition and other materiel, supplies and support Taylor provided to carry out their continuing campaign of terror against the civilians of Sierra Leone. Taylor's materiels provided the AFRC/RUF with the means to make areas fearful, to make civilian areas "no go" zones, and to control the civilian population not killed or driven out of the AFRC/RUF controlled areas.
242. Bockarie and other AFRC/RUF personnel made a series of trips to Monrovia in 1998. On these trips, as Sesay would do later when he was Interim Leader, Bockarie took diamonds to Taylor in return for the arms and ammunition sent to Buedu. The diamonds were those mined through forced labour in Kono and Tongo Fields.<sup>742</sup> Details regarding the exact number and specific timing of these trips may have been impacted by the passing of time. However, there can be no reasonable doubt that these multiple trips occurred, that Taylor provided critically needed arms, ammunition, other supplies and support to the AFRC/RUF forces during this period, or that Taylor received diamonds from them.

#### Trip to Monrovia with TF1-406 at Taylor's instruction

243. Soon after the arrest of the Junta personnel who had fled by helicopter to hoped-for sanctuary with Taylor in Monrovia, Taylor sent SSS Assistant Director of Operations Varmuyan Sherif to bring Sam Bockarie to meet with Taylor in Monrovia. When Sherif reached the "central town" in Kailahun, he witnessed Bockarie kill some men whom Bockarie identified as Kamajors. Sherif heard Bockarie state that he was leaving and heard Bockarie order that the remaining people should all be dead before he, Bockarie, came back. Sherif then travelled to Buedu to Bockarie's house. Before

<sup>741</sup> TF1-275, TT, 21 February 2008, p. 4510; TF1-274, TT, 2 December 2008, pp. 21490-92 and 3 December 2008, p. 21554; [REDACTED]; TF1-360, TT, 5 February 2008, pp. 3105-07; TF1-568, TT, 12 September 2008, p. 16140; TF1-577, TT, 4 June 2008, pp. 11018-20, 11022; TF1-585, TT, 5 September 2008, pp. 15617-22 and 8 September 2008, pp. 15652-57.

<sup>742</sup> See for example [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13049, 13081 and 8 July 2008, p. 13153; TF1-388, TT, 15 July 2008, p. 13768; TF1-367, TT, 1 September 2008, p. 15023; TF1-532, TT, 3 April 2008, pp. 6546-47: witness knows of Bockarie's trips to Monrovia but not the dates of those trips; TF1-045, TT, 13 November 2008, pp. 20214-17. As regards the time frame, see pp. 20194, 20203, 20208 wherein the witness refers to seeing and speaking with Daniel Tamba aka Jungle on three occasions between approximately 19 February 1998 when the witness was stationed at Buedu, and approximately late April/ early May when he was assigned to Baiima but visited Buedu; TF1-334, TT, 18 April 2008, pp. 8033-35.

Bockarie would travel to Monrovia with Sherif, Bockarie had his radio operator in Buedu call the Executive Mansion to verify who Sherif was and that he was on a mission from Taylor. Bockarie already had the required radio information to make the radio contact with the Executive Mansion in Monrovia. Sherif later learned of the communications centre located on the fifth floor of the Executive Mansion, from where communications with the rebels in Sierra Leone were carried out.

244. After getting confirmation of Sherif's identity and the official nature of the contact, Bockarie travelled with Sherif to Liberia, taking diamonds with him. At about Waisue, close to Gbarnga, Yeaten and Musa Sesay aka Cisse met them. Yeaten transferred Bockarie to Yeaten's vehicle which was going to take another route via Roberts Field in order to avoid the ECOMOG checkpoints at Gate 15 and Careysburg. Sherif continued on to Monrovia with the rest of Bockarie's delegation, taking them to lodge at his residence in Monrovia.
245. The next day, Bockarie came to Sherif's house to talk to his men and use the radio. In the presence of Sherif, Bockarie communicated with his subordinates back in Sierra Leone. During this communication, Bockarie ordered: "Both Kono and Tongo, you guys who are there, you should be alert because the SLA soldiers were coming from Freetown. You should receive them and give them good treatment." Bockarie also stated that he, Bockarie, had received information that "JPK --, that is Johnny Paul Koroma, -- is missing in action and that he is heading for either Kono or Tongo area" and ordered "that everybody should be alert to receive him." In that regard, the evidence indicates that around the time the retreating AFRC/RUF forces were fighting to take control of Kono, Koroma had run out of credits for his satellite phone and was no longer able to use it to communicate with Taylor.<sup>743</sup>
246. The next day after Bockarie's visit to Sherif's house, Taylor summoned Sherif and said he was happy with Sherif and directed Sherif to return to the location where Yeaten had met him and wait there. Yeaten and Bockarie met up with Sherif at Waisue, and Sherif accompanied Bockarie to the border at Mendekoma. During that return trip, Bockarie showed Sherif money—US dollars—and a satellite phone that Taylor had given him, informing Sherif that "the instruction had been between Mr. Taylor and Foday Sankoh at the time, but now he [Bockarie] had come and had seen Mr. Taylor so he had talked

<sup>743</sup> TF1-406, TT, 9 January 2008, pp. 847-48. See also TF1-597, TT, 21 May 2008, pp. 10496-98 and paras. 140-41, 145 above.

to his father” and “anything they are supposed to do now to carry on his mission everything will go successfully.”<sup>744</sup> Bockarie later told Jabaty Jaward about this trip he took with Sherif to see Taylor.<sup>745</sup>

247. Although he later tried to “correct” his inadvertent admission, the Accused admitted that the date of his first “contact,” “real contact” with Bockarie was either the last quarter of 1997 or early 1998.<sup>746</sup> DCT-008 admitted that radio transmissions were sent to and received from the RUF at the Executive Mansion some time during 1998. DCT-008 also described the elaborate security measures in place to ensure no unauthorized visitors had access to the Executive Mansion and that several operators worked on a shift, at least in so far as his own shifts were concerned,<sup>747</sup> making it clear that such transmissions were authorized or they would have been denounced by persons loyal to Taylor.
248. Upon Taylor’s instruction, shortly after the Intervention, Bockarie travelled with bodyguards and radio operator DAF aka Dauda Fornie to Monrovia, escorted by Jungle.

<sup>744</sup> TF1-406, TT, 9 January 2008, pp. 828-51 and TT, 10 January 2008, pp. 925-26; TF1-567, TT, 2 July 2008, pp. 12906-07 and 8 July 2008, p. 13153: Bockarie said that Taylor sent Varmuyan Sherif to take Bockarie to see Taylor; TF1-045, TT, 13 November 2008, pp. 20177-79, 20180-84 and 17 November 2008, pp. 20454-61: the witness was in Kailahun Town with Bockarie, saw Bockarie kill some of the supposed Kamajors and say “we need to kill these people,” after which the killing of the others started. The witness himself took part in the killing and saw someone there identified to him as a Liberian commander. Witness and Mosquito and others then traveled to Buedu and witness saw that same Liberian commander in Buedu at Bockarie’s house. Witness later traveled back through Kailahun Town with Bockarie and the killings there had been completed; TF1-516, TT, 8 April 2008, pp. 6851-55: the witness moved to Buedu within a very short time after the Intervention. Bockarie was there when witness arrived in Buedu and Bockarie told witness that he was “just here from the other side” [meaning Liberia] and that he, Bockarie had been promoted by the Chief, Taylor, and now was a general; Exh D-8, pp. 3, 5-6: Bockarie had contact with Monrovia and had made visits there before the diamonds taken from Johnny Paul Koroma were taken to Monrovia to “Big Brother”; [REDACTED]; Accused, TT, 29 October 2009, pp. 30747-48: the Accused admits that the secret service had a communications center on the fifth floor of the Executive Mansion and that all its communications gear was on that floor; DCT-008, TT 3 September 2008, pp. 47903-04: this Defence witness confirmed that there was a person called “405” who was a part of the SSS, though DCT-008 said he was a chief technician who repaired radio sets including at the Executive Mansion.

<sup>745</sup> TF1-388, TT, 10 July 2008, pp. 13380, 13382: Bockarie said that Varmuyan Sherif picked up Bockarie and took him to Monrovia and on that trip Taylor gave Bockarie a satellite phone. The witness arrived in Buedu almost at the end of February to March 1998 and this trip with Sherif was before the witness arrived in Buedu.

<sup>746</sup> Accused, TT, 14 July 2009, pp. 24336-38: lead Defence counsel first asked the Accused if he had personal contact with Bockarie and the Accused said yes, he did. Lead Defence counsel asked what year the Accused first made contact with Bockarie and the Accused stated the first “real contact” was made late 1997, early 1998 and then explained more about why this was the correct timing.

<sup>747</sup> DCT-008, TT, 24 August 2010, pp. 47040-41, 47047, 47135-39 and 3 September 2010, pp. 47881-82, 47888-91 and 7 September 2010, pp. 48132-33.

Mosquito used a medium-sized truck to bring back ammunition such as AK rounds, grenades, GPMG, G3 rounds, RPG rockets and GPMG rounds.<sup>748</sup>

249. As discussed in Section III.A. below, shortly after Johnny Paul Koroma arrived in Buedu, some 1800 pieces of diamonds were taken from him.<sup>749</sup> At about this same time, some 115 diamonds were handed over by Gullit.<sup>750</sup> Sam Bockarie said he would take all these diamonds to Big Brother, Charles Taylor, in Monrovia to obtain more arms and ammunition for the RUF.<sup>751</sup> During Bockarie's next trip to Liberia, Bockarie took additional diamonds to Taylor and saw that the diamonds taken from Koroma had indeed been taken to Charles Taylor.<sup>752</sup> The Accused then instructed Benjamin Yeaten to provide Bockarie with arms and ammunition. Bockarie returned to Buedu, accompanied by Joseph Marzah and Sampson [Weah] with 15-20 boxes of AK-47 ammunition, some RPG bombs, salt, maggi and cigarettes. Upon his return, Bockarie reported to Issa Sesay and the other commanders about his meeting with Charles Taylor.<sup>753</sup> The materiel provided by Taylor was used to hold captured positions, to widen the areas of control and for other specific purposes or operations.

*Materiel to* [REDACTED]

250. [REDACTED]

[REDACTED]<sup>754</sup>

*Materiel to "hold" Kono*

251. Almost immediately after the Intervention, Taylor emphasized to the AFRC/RUF the importance of holding diamond-rich Kono. To that end, Taylor provided arms and ammunition to Bockarie, which he sent on to Kono in order to capture and maintain control of that area. The materiel sent included green boxes of ammunition which had "AFL," and "Armed Forces of Liberia" written on them.<sup>755</sup> This ammunition was indeed used to fight to capture and hold Koidu Town and the surrounding areas.

<sup>748</sup> TF1-274, TT, 2 December 2008, pp. 21444-55.

<sup>749</sup> Exh. D-8, pp. 1-6; [REDACTED]

<sup>750</sup> Exh. D-8, pp. 3-4; [REDACTED]

<sup>751</sup> [REDACTED]. See also Exh. D-8, pp. 3-4, 6; Exh. P-67.

<sup>752</sup> [REDACTED]; Exh. D-8, pp. 12957, 12960.

<sup>753</sup> [REDACTED]; TF1-274, TT, 2 December 2008, p. 21454.

<sup>754</sup> [REDACTED]

<sup>755</sup> TF1-334, TT, 18 April 2008, pp. 8009-11, 8015-16, 8021-23, 8028, 8031-33 and 28 April 2008, p. 8716; TF1-375, 23 June 2008, pp. 12508-12, 12516-19.

252. After the AFRC/RUF were pushed out of Koidu Town, between April to June 1998, they were ordered to burn the town.<sup>756</sup> The AFRC/RUF then set up a series of camps in Kono District, including PC Ground, Superman Ground, and others.<sup>757</sup> The attacks AFRC/RUF carried out from these camps relied on arms and ammunition supplied to Bockarie by Taylor. Bockarie also sent personnel to reinforce the fighters in these camps—these reinforcements were armed with weapons and ammunition supplied by Taylor.<sup>758</sup>
253. Taylor provided the abundant arms and ammunition used to carry out the Fitti Fatta mission.<sup>759</sup> Prior to that mission, some weeks after the AFRC/RUF were forced out of Koidu, Taylor's subordinates from Liberia came to Superman Ground with arms and ammunition, and talked about retaking Koidu Town. At about the same time, Bockarie sent subordinates to Foya from where they were transported by helicopter to Gbarnga. Zigzag Marzah accompanied them to Gbarnga. After meeting with Benjamin Yeaten in Gbarnga, they received materiel from Taylor's house there, which they transported by vehicle to Foya and then into Sierra Leone. Eddie Kanneh, who was among those sent by Bockarie, said he was going with Yeaten to see the President and took a helicopter at Foya to go to Monrovia to meet with Taylor. Jungle and Sampson escorted the materiel and Bockarie's subordinates back to Sierra Leone.<sup>760</sup>
254. In addition, Bockarie travelled to see Taylor to obtain arms and ammunition. On his return, Bockarie showed his subordinates the large amount of arms and ammunition, including AK-47s, GPMGs, RPGs and LMGs. These arms and ammunition were to be

<sup>756</sup> TF1-375, TT, 23 June 2008, p. 12520-21; TF1-334, TT, 18 April 2008, p. 8032.

<sup>757</sup> TF1-584, TT, 18 June 2008, pp. 12158-59, 12178-90; Exh. P-146, p. 1; TF1-375, TT, 23 June 2008, pp. 12521-23.

<sup>758</sup> See for example TF1-532, TT, 11 March 2008, pp. 5748, 5781-83; TF1-334, TT, 17 April 2008, pp. 7950-52 and 21 April 2008, pp. 8136-38; TF1-584, TT, 18 June 2008, pp. 12190-94, 12245-48; TF1-375, TT, 23 June 2008, pp. 12523-43; TF1-532, TT, 11 March 2008, pp. 5748, 5781-83; TF1-579, TT, 5 November 2008, pp. 19832-36, 19837-42 and 25 November 2008, pp. 21090-103.

<sup>759</sup> TF1-360, TT, 5 February 2008, pp. 3160-63, 3169-70. See also TF1-571, TT, 9 May 2008, pp. 9448-58: witness sent to Foya to get materiel – arms and ammunition – sent by Taylor before Sani Abacha died and see Agreed Fact #11, that Abacha died in June 1998 and Exh. P-571, which places the attack on Koidu on 10 to 11 June 1998; TF1-334, TT, 18 April 2008, pp. 8033-36; May/June 1998 Mosquito gave diamonds to Taylor for ammunition as Superman told the witness; TF1-375, TT, 23 June 2008, pp. 12535-43; TF1-532, TT, 11 March 2008, pp. 5748, 5781-85. See also TF1-263, TT, 6 October 2008, pp. 17937-44: witness saw people with red caps and combats/military trousers bring guns to Buedu; these escorts spoke Liberian English and one of the rebels told the witness the escorts were Charles Taylor's soldiers. Thereafter Bockarie sent fighters to clear Kono, but the attack was not successful.

<sup>760</sup> TF1-375, TT, 23 June 2008, pp. 12523-43; TF1-532, TT, 11 March 2008, pp. 5748, 5781-85.

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used for the Fitti Fatta mission. Bockarie assured them that more arms and ammunition would come for the 'big mission' to take areas all the way to Freetown, of which Fitti Fatta was to be only the beginning.<sup>761</sup> In addition to the materiel, at this time Taylor also sent manpower including herbalists who put "protection marks" on the fighters and medical support for the mission to recapture Kono, hence the name of the operation, Fitti Fatta, meaning an abundance of everything. Civilians were forced to carry the materiel to the commanders. After the materiel was distributed and the herbalists had put the protection marks on the fighters, the Fitti Fatta operation was launched.<sup>762</sup> Despite this abundant amount of materiel the mission failed.

*Materiel for operations in the North*

255. Ammunition provided by Taylor was also used by AFRC/RUF for operations in the north. Soon after the failed Fitti Fatta mission, it was distributed to Komba Gbundema and his fighters in Wordu, to be taken to SAJ Musa in Kurubonla for an attack on Mongor Bendugu in the northern axis. This was done, and the ammunition was used by SAJ Musa's troops, reinforced by RUF Komba Gbundema, for that attack, during which atrocities were also committed against civilians and the entire town was burned down.<sup>763</sup> Taylor's ammunition was also used for the attack against ECOMOG at Kabala in the northern axis, with a combined force of AFRC/RUF/STF fighters led by SAJ Musa and Superman.<sup>764</sup>
256. The materiel provided by Taylor was also used for attacks on such locations as Mansofinia to Kamagbengbe, Karina, Mandaha, Gbendembu, and on the way to Rosos.<sup>765</sup> The arms and ammunition provided by Charles Taylor were also used during the campaign of terror launched by Gullit's troops in Bombali district leading on to the January 1999 attack on Freetown. As A.B. Sesay explained, during the attacks which terrorized the civilian population in the Bombali District, including the campaign of terror around Camp Rosos, Gullit's troops used the ammunition Bockarie sent from

<sup>761</sup> TF1-360, TT, 5 February 2008, pp. 3105, 3162-64. See also TF1-532, TT, 11 March 2008, p. 5748.

<sup>762</sup> See for example TF1-360, TT, 5 February 2008, pp. 3159-72; TF1-567, TT, 2 July 2008, pp. 12907-08; TF1-584, TT, 19 June 2008, pp. 12236-39; TF1-375, TT, 23 June 2008, pp. 12523-43.

<sup>763</sup> TF1-375, TT, 23 June 2008, pp. 12543-54.

<sup>764</sup> TF1-375, TT, 24 June 2008, pp. 12556-60. See also TF1-263, TT, 6 October 2008, pp. 17943-50: the witness went to the north after the unsuccessful attempt to retake Kono; Superman came to the north and told the fighters he had brought ammunition with him.

<sup>765</sup> TF1-334, TT, 21 April 2008, pp. 8136-39. See also TF1-360, TT, 5 February 2008, pp. 3168-71: "sometimes we will come and collect ammunition from Buedu that Sam Bockarie gave to Superman that ... Superman was to take to SAJ Musa."

Kailahun after the attack on Koidu Geiya—ammunition Bockarie had obtained from Taylor.<sup>766</sup>

November/December 1998 Burkina Faso shipment

257. One of the largest and most significant shipments of arms and ammunition provided to the AFRC/RUF was that which arrived just prior to the multi-axis operation culminating in the attack on Freetown in January 1999—the operation which inflicted so many crimes and such great suffering on the civilian population of Sierra Leone. Taylor was instrumental in procuring and organizing this shipment.<sup>767</sup>
258. Around October/November 1998, Bockarie put Issa Sesay momentarily in command in Buedu and Isaac Mongor temporarily in command in Pendembu while he, Bockarie, obeyed Taylor's order to travel to Monrovia. Bockarie travelled with a delegation to Monrovia and then onward to Burkina Faso. Bockarie's delegation to Monrovia included his security personnel, Rashid, SYB Rogers, Eddie Kanneh, radio operator Dauda Fornie aka DAF and others.<sup>768</sup> As the Accused admitted to the Court, Bockarie met with Taylor in Monrovia on this trip, as he had on earlier trips.<sup>769</sup>
259. It was originally planned that Bockarie would go to Libya to get materiel. However, in Monrovia the plan was changed at Taylor's instruction and Taylor sent Bockarie to Burkina Faso instead, as the materiel had been taken there.<sup>770</sup> From Monrovia, Taylor then sent Bockarie, Kanneh, Rogers and Womandia on to Burkina Faso to receive the materiel. DAF remained in Monrovia. While they were in Burkina Faso, Bockarie contacted DAF several times to get updates on the front lines in Sierra Leone. Bockarie and his delegation, accompanied by Taylor's subordinate Musa Cisse, brought a large

<sup>766</sup> TF1-334, TT, 21 April 2008, pp. 8092-00, 8136-38. See also TF1-028, 7 May 2008, pp. 9205-10: while being held captive at Eddie Town, word came that Superman had sent RUF reinforcements from Kurubonla, with a good amount of ammunition.

<sup>767</sup> e.g. Exh. P-63, pp. 2-4; Exh. P-67, pp. 5-10; [REDACTED]; TF1-274, TT, 3 December 2008, pp. 21541-52.

<sup>768</sup> Exh. P-63, pp. 2-4; TF1-577, TT, 6 June 2008, pp. 11204-07; TF1-567, TT, 2 July 2008, pp. 12912-15; TF1-274, TT, 3 December 2008, pp. 21541-54; TF1-532, TT, 11 March 2008, pp. 5780-95 and 4 April 2008, pp. 6662-65; TF1-516, TT, 9 April 2008, pp. 6960-66; TF1-045, TT, 13 November 2008, pp. 20217-8; [REDACTED].

<sup>769</sup> Accused, TT, 5 August 2009, pp. 26036-47 and 17 September 2009, pp. 29247-50.

<sup>770</sup> TF1-274, TT, 3 December 2008, p. 21542 and 10 December 2008, p. 22090: the weapons from Ouagadougou originated in Libya; TF1-532, TT, 11 March 2008, pp. 5789-95: Bockarie explained to the witness that Taylor had arranged for Bockarie to go to Burkina Faso to get ammunition and showed the witness photographs; Exh. P-67, p. 00009678; TF1-276, TT, 23 January 2008, pp. 1997-98: Bockarie said he had been to Burkina Faso and gave witness photos related to his trip (see Exh. P-46 A-B).

quantity of arms and ammunition back with them to Roberts International Airport (RIA).<sup>771</sup>

260. It should be noted that on one occasion before the Freetown invasion, TF1-406 saw Bockarie again in the Monrovia area, but Sherif is uncertain as to the date of this occurrence. However, it is likely it was in connection with the Burkina Faso shipment. On this occasion, Taylor sent Sherif and Paul “Molrbah” to Roberts International Airport (RIA) because arms and ammunition were coming in. Sherif saw Bockarie with Joe Tuah and Musa Sesay aka Cisse together at a restaurant behind RIA, a restaurant owned by Martina Johnson. Martina Johnson was Taylor’s then security director at RIA and, at one time, had been Taylor’s artillery chief of staff. Bockarie and the others were discussing what quantities of the materiel they were going to receive. Paul “Molrbah” told them that before the arms and ammunition could be distributed they would have to be taken to Taylor’s residence, White Flower, so Taylor could distribute the materiel as he chose. The materiel was taken to White Flower and distributed from there.<sup>772</sup>
261. Taylor kept some of this materiel brought back from Burkina Faso and sent the remainder on to the AFRC/RUF through Bong and Lofa Counties. Jungle, Marzah and others escorted the materiel back to Buedu.<sup>773</sup> Bockarie, Yeaten and Eddie Kanneh discussed the use of the materiel, stating that the first targets to be hit with it would be Kono and Tongo,<sup>774</sup> both diamond mining areas. Bockarie called Issa Sesay from Base I, asking him to pass a message on to the various commanders of the various front lines to meet him in Buedu.<sup>775</sup>
262. Bockarie returned to Buedu with “morale boosters” and the very large quantity of materiel from Burkina Faso via Monrovia to be used to carry out the plan he and Taylor had reinvigorated, the plan for the multi-axis nationwide operation, with Freetown as

<sup>771</sup> e.g. TF1-274, TT, 3 December 2008, pp. 21541-54; [REDACTED]; TF1-399, TT, 12 March 2008, pp. 5884-86; Exh. P-67, p. 00009678; DCT-172, TT, 11 August 2010, p. 45967 and 12 August 2010, pp. 46125, 46149-50: materiel came from Burkina Faso.

<sup>772</sup> TF1-406, TT, 9 January 2008, pp. 866-70: It is not clear from the evidence if this shipment was an earlier shipment or that which came from Burkina Faso in late 1998.

<sup>773</sup> TF1-274, TT, 3 December 2008, pp. 21548-52; TF1-399, TT, 12 March 2008, pp. 5883-86; Exh. P-63, pp. 2-4; TF1-532, TT, 4 April 2008, pp. 6662-65; [REDACTED]

[REDACTED]. See also TF1-276, TT, 23 January 2008, p. 1993: witness met Bockarie in Foya.

<sup>774</sup> TF1-274, TT, 3 December 2008, p. 21542.

<sup>775</sup> TF1-274, TT, 3 December 2008, p. 21547.



the ultimate goal. Upon Bockarie's return to Buedu, at least some of the materiel was packed "from the floor to the ceiling" of the store room area in his house.<sup>776</sup> Bockarie stated he had given diamonds to Taylor for the materiel.<sup>777</sup> The materiel brought from Monrovia included AK-47s, G3s, RPG ammunitions, rockets and bombs, ammunition including GMG ammunition, AK-47 rounds, bombs grenades and mines.<sup>778</sup> Bockarie explained that the plan hatched with Taylor in Monrovia was also to save ammunition by making the operation more fearsome than all operations before, and that Bockarie and Taylor had discussed this aspect of the operation.<sup>779</sup>

263. Bockarie distributed the materiel to his AFRC/RUF commanders for the all-out attacks on the Kenema and Kono axes, including against Tongo, Sengema and Kuiva.<sup>780</sup> The most significant quantities of ammunition went to Kono and Tongo.<sup>781</sup> Upon Sam Bockarie's orders, civilians captured from the villages surrounding Buedu were forced to carry the arms and ammunition to Superman Ground.<sup>782</sup>
264. The materiel supplied by Taylor was critical to the success of the multi-axis nationwide operation. This materiel was used to capture Koidu town and environs and other locations from which the attacking forces were able to supplement their supplies by

<sup>776</sup> TF1-274, TT, 10 December 2008, pp. 22045-46 and 3 December 2008, pp. 21551-52; TF1-571, TT, 9 May 2008, pp. 9416-23, 9437-38; TF1-532, TT, 11 March 2008, pp. 5789-804, esp. 5794 and 7 April 2008, p. 6721: materiel for the plan discussed with Taylor to capture Kono, Makeni, and advance to Freetown; TF1-577, TT, 5 June 2008, pp. 11080-82; TF1-568, TT, 17 September 2008, pp. 16431-32; TF1-516, TT, 8 April 2008, pp. 6960-61; [REDACTED]

[REDACTED]; TF1-276, TT, 23 January 2008, pp. 1993-97; TF1-567, TT, 2 July 2008, pp. 12912-14; TF1-045, TT, 13 November 2008, p. 20219: Bockarie told the personnel at a meeting convened after his return that the materiel was from Taylor for the operation; TF1-399, TT, 12 March 2008, pp. 5885-91; TF1-367, TT, 20 August 2008, pp. 16161-65: all the ammunition used during the attack came from Taylor to Buedu as told to the witness by Rambo; Exh. P-370 & P-371: arms, ammunition and other supplies distributed to commanders prior to attack; Accused, TT, 7 December 2009, p. 33074.

<sup>777</sup> TF1-360, TT, 5 February 2008, pp. 3159-64, esp. at 3162; [REDACTED]. See also TF1-577, TT, 5 June 2008, pp. 11075-76: Bockarie had a paper with diamonds and said he was taking "stones" to "the Father," Taylor, to get arms and ammunition.

<sup>778</sup> TF1-571, TT, 9 May 2008, pp. 9416-23, 9437-38; TF1-532, TT, 11 March 2008, pp. 5795-804; [REDACTED]; TF1-516, TT, 9 April 2008, pp. 6965-66; TF1-567, TT, 2 July 2008, pp. 12912-14.

<sup>779</sup> TF1-532, TT, 11 March 2008, pp. 5796-97.

<sup>780</sup> TF1-388, TT, 10 July 2008, pp. 1339-93; TF1-274, TT, 3 December 2008, pp. 21552-55; TF1-567, TT, 2 July 2008, pp. 12854-55, 12912-14; TF1-045, TT, 13 November 2008, pp. 20222-24; Exh. P-93: listing material taken by Sesay to Kono including to Sengema which TF1-516 explained was a crossing point where personnel were assigned to act as security escorts for movement between Kailahun and Kono (see TF1-516, TT, 8 April 2008, p. 6856 and see TF1-388, 10 July 2008, pp. 13411-12 re. Sengema); Exhs. P-371 and P-372.

<sup>781</sup> TF1-274, TT, 3 December 2008, pp. 21541-54; TF1-567, TT, 2 July 2008, pp. 12912-14; Exh. P-373: lists the materiel taken by Sesay to Kono.

<sup>782</sup> TF1-567, TT, 2 July 2008, pp. 12912-14.

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capturing more materiel. This in turn enabled them to move on to other targets and capture them, all along the Freetown axis and the Kenema axis.<sup>783</sup> Some of the materiel was used all the way to Freetown; among the ammunition Rambo Red Goat brought with him for his attacks in the Freetown area was what Bockarie provided him for the attack on Kono and Makeni.<sup>784</sup>

Other shipments December 1998 – January/February 1999

265. In addition to this large shipment from Bockarie's trip to Burkina Faso, on 22 December 1998, Taylor received a large shipment of arms and ammunition from Niger. The materiel was brought to Liberia from Niger on the same airplane that, on the same date, returned Taylor from Niger. The airplane used was one purchased by Leonid Minin, whom Taylor had granted a timber concession in Liberia. The materiel was offloaded onto GoL military vehicles.<sup>785</sup>
266. Approximately two days after the 6 January rebel entry into Freetown, Gullit requested ammunition from Bockarie. In response, Bockarie contacted Yeaten and repeated the request for ammunition. At that time, Bockarie was too busy coordinating the front line fighting to go to Liberia himself, so he sent Dauda Fornie aka DAF and some securities to Monrovia to receive ammunition from Yeaten. They brought the material back to Buedu, including about 25 boxes of ammunition, some RPG warheads and some grenades. Bockarie sent the ammunition on to Kono; from there it was sent on to Issa Sesay in Makeni, who then sent it on to commander Rambo aka Boston Flomo whose forces were at that time in the Waterloo area to reinforce the fighting forces in Freetown, the "RUF fighting forces in Freetown."<sup>786</sup>
267. As discussed in paragraph 173 above, during the Freetown operation on Taylor's instruction, Bockarie did travel to brief and take instruction from Taylor. Bockarie returned from that trip with ammunition.

<sup>783</sup> TF1-577, TT, 5 June 2008, pp. 11081-86; [REDACTED]; TF1-045, TT, 13 November 2008, p. 20166; DCT-172, TT, 12 August 2010, p. 46149.

<sup>784</sup> TF1-334, TT, 24 April 2008, pp. 8433-34, TT, 29 April 2008, p. 8922.

<sup>785</sup> Exh. P-18, p. 36-37, paras. 208, 211, 217; Accused, TT, 28 January 2010, pp. 34431-33.

<sup>786</sup> TF1-274, TT, 3 December 2008, pp. 21594-96, 21605-06: the witness was aware of this shipment and its uses in Sierra Leone because they were recorded in the radio message logbook.

268. Taylor continued to provide AFRC/RUF troops with arms and ammunition even after the atrocities committed against civilians during the Freetown operation. For example, in about March 1999, around the time Taylor's forces were attacked in Lofa County and with the civilian population of Sierra Leone and the international community still reeling from the viciousness of the atrocities committed by the AFRC/RUF, Charles Ghankay Taylor provided arms and ammunition to those rebel forces. Bockarie went to Monrovia and was provided a major shipment of materiel. The materiel was brought directly from White Flower.<sup>787</sup> Zigzag Marzah, Jungle and Mike Lama brought the arms and ammunition to Buedu. They said the materiel was from Charles Taylor; that Taylor said when it is time for peace, he should prepare for war and that as the peace talks were going on they should keep the ammunition underground.<sup>788</sup>
269. There can be little doubt that the materiel Taylor gave to Bockarie in about March 1999 was part of a shipment which Taylor obtained through his friend Blaise Compaoré, President of Burkina Faso. The materiel in this shipment was flown to Liberia via Burkina Faso, where the head of Compaoré's Presidential Guard, Diendere, signed an end user certificate certifying that materiel sent on to Taylor was for sole use of the Burkina Faso Ministry of Defence, and that Burkina Faso was the final destination and end user of the materiel.<sup>789</sup> The materiel originated from a Ukrainian state-owned company.<sup>790</sup> Taylor used the same plane for this March 1999 consignment as he had used for the 22 December 1998 delivery of materiel from Niger.<sup>791</sup> It is no coincidence that an outgoing UN cable dated 14 April 1999 noted that General Felix Mujakperuo, ECOMOG commander in Sierra Leone, had indicated he would "attack" RUF rebel

<sup>787</sup> [REDACTED]. See also TF1-571, TT, 9 May 2008, pp. 9458-61; TF1-567, TT, 4 July 2008, pp. 12965-67: before RUF delegation went to Lomé the witness saw Zigzag Marzah, Jungle and Mike Lama in Buedu, they had brought ammunition from Taylor; TF1-585, TT, 8 September 2008, pp. 15731-32: Taylor called Bockarie to come to Monrovia for ammunition some two weeks after the Freetown retreat; two days later Jungle arrived in Buedu with ammunition – witness is not clear if this is the March shipment or another shipment; Exhs. P-18, para. 21 and P-32, para. 212.

<sup>788</sup> TF1-567, TT, 2 July 2008, pp. 12903-04 and 4 July 2008, pp. 12965-67: the witness was stationed at Buedu at this time and saw these escorts arrive with the materiel.

<sup>789</sup> Exh. P-18, paras. 203-10.

<sup>790</sup> Exh. P-18, paras. 204-05.

<sup>791</sup> Exh. P-18, paras. 208-209, 211.

supply routes in Liberia, no doubt in reference to Taylor's March shipment to the rebels.<sup>792</sup>

270. It is clear from the evidence that any connection the RUF, AFRC/RUF may have had with Burkina Faso or with Ukrainian arms sources – if there was any at all, was established at the instigation of, and with the knowledge and consent of, Taylor, close friend of the President of Burkina Faso and large-scale arms importer.

#### Shipment around June 1999

271. In about June 1999, General 50 aka Benjamin Yeaten brought boxes of ammunition to Issa Sesay and others.<sup>793</sup> In late 1999, Taylor sent several trucks loaded with arms and ammunition to Buedu, along with food and other supplies.<sup>794</sup>

#### Shipment around August – October 1999

272. During the Lomé negotiations, Bockarie came to Monrovia – with no noted exemption from the travel ban. Bockarie waited in Monrovia, staying at the Guest House, until Johnny Paul Koroma and Sankoh came to Monrovia. Immediately upon Sankoh's departure for Freetown, Yeaten took Bockarie to see Taylor to arrange Bockarie's return to Sierra Leone. The next day, Yeaten accompanied Bockarie to Spriggs Field where a camouflage coloured helicopter "owned" by Taylor waited to take Bockarie to Foya. Bockarie took ammunition provided by Taylor to "keep the security" as Sankoh was going to Freetown; the materiel included AK-rounds and RPG bombs. From Foya, Bockarie travelled overland to Buedu.<sup>795</sup>

273. It was while Bockarie was in Monrovia during this time that Bockarie's Salute Report was prepared,<sup>796</sup> either by or with the assistance of Taylor and/or his subordinates.

#### During Issa Sesay's reign as Interim Leader

274. As Interim Leader, Sesay complied with Taylor's direction, appearing outwardly cooperative regarding disarmament in Sierra Leone, but in reality regularly bringing to

<sup>792</sup> Exh. D-448, p. 29703, para. 1: cable from UN RSG Felix Downes-Thomas, the UN RSG who worked so closely with Taylor and routinely provided him with copies of UN cables, none of which included Taylor as a recipient; Dr. Stephen Ellis, TT, 16 January 2008, p. 1472.

<sup>793</sup> TF1-516, TT, 10 April 2008, pp. 7270-71.

<sup>794</sup> TF1-585, TT, 8 September 2008, p. 15663. See also TF1-585, TT, 9 September 2008, p. 15782 and 11 September 2008, pp. 15996, 16001-02: Jungle came from Monrovia with ammunition and arms, Bockarie left for Monrovia the next day.

<sup>795</sup> TF1-567, TT, 4 July 2008, pp. 12974-78, 12982-84. See also Accused, TT, 25 November 2009, pp. 32441-42 and 26 November 2009, pp. 23542-43; DCT-172, TT, 12 July 2010, p. 44256.

<sup>796</sup> Exh. D-9; Accused, TT, 25 November 2009, p. 32441.

his forces arms and ammunition provided by Taylor, including RPGs, RPG rockets, AK rounds, GPMG rounds, GMG rounds, grenades and other ammunition. Even before and throughout his tenure as Interim Leader, Sesay, the person responsible for the purchase of arms and ammunition for the AFRC/RUF, routinely requested arms and ammunition from Taylor, and those requests were routinely granted. [REDACTED]

[REDACTED]  
[REDACTED]<sup>797</sup>

275. At that meeting, Sesay told Taylor that UNAMSIL and pro-government forces were still attacking him. In response, Taylor arranged for immediate provision of materiel. Taylor instructed Sesay to appoint a person to go to Belle Fasama with Joe Tuah to retrieve materiel which Taylor had hidden there. Joe Tuah was one of Charles Taylor's trusted subordinates, former NPFL, Assistant Director of the SSS for Intelligence, Assistant Director without portfolio, courier/liaison between Taylor and the RUF, AFRC/RUF, and someone Taylor sent out of Liberia to get materiel.<sup>798</sup> Tuah retrieved AK-47 rounds, G3 rounds, RPG rockets and some rifles. These materiels were transported from Belle Fasama by truck to Monrovia, then by Weasua helicopter to Foya. From Foya, some of the materials were then transported to Sesay's base in Koidu, Kono District, Sierra Leone. The remaining arms and ammunition were stored in Foya, and the RUF returned to obtain arms and ammunition from that storage location as required.<sup>799</sup>

276. During Sesay's reign as Interim Leader, he or his subordinates—including those assigned to Lofa County to fight alongside Taylor's Liberian forces—transported the materiel provided by Taylor from Liberia to Sierra Leone. Materiel was also brought in by Taylor's subordinates, including Zigzag Marzah, Daniel Tamba aka Jungle, Dopoe Menkarzon, Sampson Weah and Liberian Mosquito. Amphibian Father aka Roland Duoh brought materiel to Buedu during the time the LURD were threatening Foya, including when they eventually took control of Foya. The materiel was brought by road

<sup>797</sup> TF1- 338, TT, 1 September 2008, pp. 15128-37 [REDACTED]

<sup>798</sup> TF1-561, TT, 14 May 2008, pp. 9885-86; TF1-338, TT, 1 September 2008, pp. 15132-33; Exh. D-141, pp. 181, 333; Accused, TT, 18 November 2009, 32030, 32035; DCT-008, TT, 31 August 2010, p. 47620; TF1-516, TT, 9 April 2008, pp. 7006-07.

<sup>799</sup> TF1- 338, TT, 1 September 2008, pp. 15132-37 [REDACTED]

and/or helicopter.<sup>800</sup> Sesay would often send requests for materiel to his subordinates assigned in Liberia and they would typically pass those requests on to Benjamin Yeaten, Taylor's trusted subordinate. Yeaten indicated he was going to pass the request on to his "dad," Taylor. Thereafter, Yeaten would notify the RUF personnel that his "dad" said that "he would solve the problem." The RUF personnel would subsequently receive materiel from Yeaten. When the materiel was brought by Sesay or his subordinates, they would often travel with Yeaten's SSS men to ensure they could freely pass through checkpoints in Taylor-controlled areas. When Sesay came to Liberia to collect arms and/or ammunition, Yeaten would often escort Sesay and the materiel to Foya in an ATU helicopter. From there the materiel would be taken to Sierra Leone by land.<sup>801</sup> [REDACTED]

[REDACTED]  
[REDACTED]<sup>802</sup>

277. On one occasion in 2000, Sesay used a subordinate to deliver a letter to Yeaten in Vahun, requesting ammunition and medicines. Yeaten said he would talk with "the father." The next day, ammunition and medicines were provided. These materiel and supplies were taken back to Sierra Leone using forced labour for a part of the trip.<sup>803</sup>
278. At the end of 2000, Sesay travelled to Monrovia and met with Taylor at the Executive Mansion Ground, providing diamonds to Taylor. Sesay appealed to Taylor for arms and ammunition in order to counter threats by Kamajors and United Nations forces against AFRC/RUF positions in Sierra Leone. Taylor told Issa Sesay that he would speak with Benjamin Yeaten. Subsequently, Yeaten and Sesay went to Camp Schefflein, situated close to Monrovia and about three miles from RIA,<sup>804</sup> where Sesay was provided with large quantities of AK-47 rounds, RPG rockets, G3 rounds, as well as boots and uniforms. These materials were then transported by helicopter to Foya. Some of the materiel was left in Foya for use by RUF who were fighting there

<sup>800</sup> TF1-516, TT, 8 April 2008, pp. 6958, 6966, TT, 9 April 2008, pp. 6994-02; [REDACTED]

[REDACTED]; TF1-375, TT, 24 June 2008, pp. 12659-64: witness took ammunition from White Flower to Sesay or Sesay's subordinates four times during 2000, 2001; TF1-388, TT, 16 July 2008, pp. 13823-24; others showing AFRC/RUF; See, for example, TF1-375, TT, 24 June 2008, pp. 12659-64.

<sup>801</sup> See for example [REDACTED]

[REDACTED]; TF1-375, TT, 24 June 2008, pp. 12659-64.

<sup>802</sup> [REDACTED]  
<sup>803</sup> TF1-577, TT, 5 June 2008, pp. 11105-08.

<sup>804</sup> Accused, TT, 25 August 2009, pp. 27655-56; TF1-338, TT, 2 September 2008, pp. 15161-62.

alongside Taylor's Liberian forces. Sesay took the remaining material to Koidu by road.<sup>805</sup>

279.

[REDACTED]  
[REDACTED]  
[REDACTED].<sup>806</sup> For example, in early 2001, Issa Sesay travelled to Monrovia and, as usual, took diamonds to Taylor. Taylor provided Sesay with arms and ammunition, including AK rifles, G3 rifles, RPG rockets and fuel and diesel, which Sesay took via ATU helicopter to Foya. From there, Sesay took the materiel and supplies to Koidu by land. The fuel was used for the machinery, e.g. the Caterpillars used for diamond mining.<sup>807</sup> At the end of 2001, Sesay took diamonds to Taylor for arms and ammunition including a few AK and G3 rifles, G3 rounds and RPG rockets.<sup>808</sup>

280. The materiel Taylor provided to Issa Sesay was used, in part, against Sierra Leone government and Kamajor forces attacking Superman and other RUF contingents, initially in Freetown and later in Makeni,<sup>809</sup> against UNAMSIL forces and against LURD and Guinean forces when, on Taylor's orders, Sesay sent AFRC/RUF fighters to attack Lansana Conte's<sup>810</sup> troops on the Guinean border and in Guinea.<sup>811</sup>

281. The materiel and other support Taylor provided to Sesay was often given in return for diamonds. Throughout 2000 – 2001 Issa Sesay carried out extensive diamond mining activities in Tongo and Kono, and continued to provide the great majority of these diamonds to Taylor or Taylor's representatives.<sup>812</sup>

## II. E. THE ACCUSED SUPPLIED MANPOWER DURING THE INDICTMENT PERIOD

282. The Accused provided personnel to the RUF in the early 1990s and to the AFRC/RUF during the Junta through the end of the Indictment period. He drew these personnel from the NPFL, other organized armed groups within Liberia, Sierra Leonean refugees and civilians living in Liberia and, after he became president, from the AFL and units

<sup>805</sup> TF1-338, TT, 2 September 2008, pp. 15156-64.

<sup>806</sup> [REDACTED].

<sup>807</sup> TF1-338, TT, 2 September 2008, pp. 15164-67.

<sup>808</sup> TF1-338, TT, 2 September 2008, pp. 15164-66.

<sup>809</sup> TF1-338, TT, 1 September 2008, pp. 15128-34 and [REDACTED].

<sup>810</sup> See for example TF1-337, TT, 5 March 2008, p. 5337.

<sup>811</sup> See for example [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13108-09; TF1-338, TT, 5 September 2008, p. 15556-57.

<sup>812</sup> See Section III.A.

such as the SSS, ATU and LNP. In the early years, the personnel he supplied were mainly fighters, military trainers, and communications operators. These individuals taught NPFL practices to their RUF subordinates.<sup>813</sup> After much of the initial Liberian contingent was withdrawn by Taylor, many NPFLs remained with the RUF, including Dennis Mingo aka “Superman” and Isaac Mongor, two of the most effective and brutal RUF front-line commanders.<sup>814</sup>

283. The Accused continued to directly supply manpower to the AFRC/RUF forces throughout the Indictment period. He sent much-needed fighters for operations, herbalists to bolster confidence before Fitti Fatta in Koidu, and “facilitators” who moved AFRC/RUF members, arms and ammunition, and diamonds between countries. These “facilitators” served as security escorts, drivers, messengers, and liaisons between the Accused and the AFRC/RUF.
284. Taylor smoothed the way for this flow of personnel across the border in early 1998 when he ordered Varmuyan Sherif to open the corridor in Lofa County so fighters on either side could cross over to buy or sell arms or join the AFRC/RUF cause.<sup>815</sup> Sherif met with his former ULIMO colleagues in Lofa and told them they were free to go to RUF territories if they had arms or ammunition and wanted to do business. He also told them “the RUF should have free movement to Foya, to Kolahun, to Voinjama, wherever they want to go.”<sup>816</sup> As a result, these areas were filled with current and former fighters from both countries as well as Liberian security personnel, all of whom operated openly and without restriction, as described below.<sup>817</sup>

<sup>813</sup> e.g. Section IV.A, paras. 401-17.

<sup>814</sup> For example, during operations in Kono District, fighters under Superman’s command burned Koidu Town (see TF1-375, TT, 23 June 2008, pp. 12520-21 and TF1-516, TT, 9 April 2008, pp. 7129-30). Superman also killed 12-13 civilians by Koidu Town (TF1-532, TT, 3 April 2008, pp. 6512-13), ordered amputations (TF1-334, TT, 21 April 2008, p. 8064), and carried out Operation Pay Yourself in Makeni (TF1-375, TT, 23 June 2008, pp. 12500-02). Mongor was infamous for his 1992 massacre in Sandiaru in Kailahun District in 1992, where he killed between 50-200 civilians, including women and children (see DCT-172, TT, 5 July 2010, pp. 43650-53 and TF1-532, TT, 3 April 2008, pp. 6512-13), and in 1996, he amputated civilian fingers in Magburaka as part of Operation Stop Elections (DCT-172, TT, 13 August 2010, p. 46200).

<sup>815</sup> TF1-406, TT, 9 January 2008, pp. 852-53, 857. Sherif received this instruction after he had brought Bockarie to meet Taylor for the first time in 1998.

<sup>816</sup> TF1-406, TT, 9 January 2008, p. 853. See also TF1-516, TT, 8 April 2008, pp. 6956-57.

<sup>817</sup> See also Exh. P-78, p. 3, an NGO report from 1998 stating: “In the Vahun and Kolahun areas of Lofa County in northwestern Liberia, where tens of thousands of Sierra Leonean refugees had fled escalating fighting in eastern Sierra Leone, cooperation between rebel forces and the Liberian military was reported to be witnessed regularly. The RUF second-in-command, Sam Bockarie, was reported to have been in direct contact with Liberian military forces and to have regularly crossed the border into Liberia.” See further that the RUF in Kailahun was in contact with Liberian authorities in Voinjama and Vahun: TF1-276, 23 January 2008, pp. 1983-84; TF1-597, TT, 22 May 2008, pp. 10552, 10554-45; TF1-274, TT, 3 December 2008, pp. 21630.



Taylor facilitated the repatriation of Sierra Leonean manpower

*AFRC/RUF deserters*

285. Security forces subordinate to Taylor assisted the AFRC/RUF by capturing personnel who were trying to escape from the movement. For example, in 1998 when former SLA officer Fonti Kanu tried to escape to Liberia, Liberian police called Sesay on the radio and reported that Kanu was trying to surrender to UN agencies in Vahun.<sup>818</sup> Security forces arrested Kanu and turned him over to the Liberian Armed Forces captain stationed in Vahun, who detained Kanu until Sesay arrived, and once back in Pendembu, Sesay killed Kanu.<sup>819</sup> Another example of such assistance by Liberian authorities occurred when RUF radio operator Dauda Aruna Fornie (DAF) fled to Liberia because of a letter he had written that angered Bockarie. Bockarie sent an “instruction” to the AFL commander in Vahun, who arrested DAF and provided a two-man armed escort back to Sierra Leone.<sup>820</sup> Liberian authorities also allowed AFRC/RUF personnel into Liberia to search for deserters themselves.<sup>821</sup>

*Experienced SLAs who retreated to Liberia*

286. After the Intervention, numerous SLAs fled to Guinea and Liberia. While Guinean authorities arrested senior SLA commanders found in Guinea, authorities in Liberia made sure SLAs “had no problem.”<sup>822</sup> In fact, a policy encouraging, facilitating and actively sending SLAs back to Sierra Leone to rejoin the cause was implemented at the highest level by Charles Taylor himself. Before the operation to take Kono, Taylor organized, armed and sent a large group of experienced SLA soldiers to Bockarie to support the operation.<sup>823</sup> At a meeting in Monrovia, Taylor spoke of the help he had provided, which included giving SLAs safe passage in Liberia, ensuring none of them were arrested, ordering them to reorganize, and sending them to Mosquito in Kailahun

<sup>818</sup> TF1-597, TT, 22 May 2008, pp. 10551-52, 10555, 10608.

<sup>819</sup> [REDACTED]; TF1-597, TT, 22 May 2008, pp. 10552-54. See also TF1-045, TT, 17 November 2008, p. 20380.

<sup>820</sup> TF1-274, TT, 3 December 2008, pp. 21630-31.

<sup>821</sup> TF1-568, TT, 15 September 2008, pp. 16241-43 and 17 September 2008, pp. 16456-58: “If I had hidden and had gone to Liberia[,] Sam Bockarie should have sent a message there, or sent somebody there, so that I could be hunted and bring me back. [...] the NPFL and RUF were working hand in hand, so if I had hidden from RUF and we went to NPFL that means I had not hidden.”

<sup>822</sup> TF1-334, 23 April 2008, pp. 8401-02.

<sup>823</sup> TF1-334, 23 April 2008, pp. 8401-04: KBC and his group were part of the larger group sent by Taylor. See also [REDACTED].

to support the advance to Freetown.<sup>824</sup> Bockarie made efforts across the border as well, appointing SLAs such as Foday Kallon to cross into Liberia to persuade other SLAs to return to Sierra Leone to fight.<sup>825</sup>

*Sierra Leonean refugees*

287. Former fighters were not the only targets in the search for manpower to aid the AFRC/RUF war effort. Taylor's subordinates also arrested, detained and forced Sierra Leoneans residing in Liberia to return to Sierra Leone to fight in 1998-1999. In Vahun, members of the SOD, AFL, and regular Liberian police worked in tandem with security forces from the RUF and AFRC to force people to go back to Sierra Leone to fight, especially if they were young.<sup>826</sup> Refugees in Kolahun reported the same type of harassment.<sup>827</sup>
288. In Voinjama in February 1998, members of the SOD, SSS, ATU/Demon Forces under Chucky Taylor, AFRC and RUF were all present in the town.<sup>828</sup> For a brief time, the RUF openly recruited people in Voinjama to train in Gbarnga before going to Sierra Leone to fight, offering money to those who agreed to sign on to the mission and requiring them to meet first with Chucky Taylor, son of the Accused.<sup>829</sup> Voluntary recruitment was not the norm.<sup>830</sup> Security forces arrested people and forced them to go to Sierra Leone to fight, and when the tension in Sierra Leone increased, civilians were

<sup>824</sup> TF1-334, TT, 24 April 2008, pp. 8503-06, 8509-14: In addition, Taylor told the West Side Boys delegation in July/August 1999 that he had been doing all this work (described above), so they could remove the government in Freetown, and he was not happy there was about to be a division, saying they should focus instead on fighting for the seat of the presidency.

<sup>825</sup> DCT-172, TT, 6 August 2010, pp. 45631-33 and 19 August 2010, pp. 46685-86: note there is no mention of authorities asking questions or creating problems for Kallon to carry out his mission in either Kolahun, Vahun, or as he crossed back into Sierra Leone with the returning manpower, and Sesay did not hear of any arrests. See also TF1-539's description of security forces in these towns (TT, 10 June 2008, p. 11473).

<sup>826</sup> TF1-590, TT, 13 June 2008, pp. 11749-51.

<sup>827</sup> TF1-590, TT, 13 June 2008, pp. 11752-53.

<sup>828</sup> TF1-590, TT, 13 June 2008, pp. 11758-59, 11761 and 16 June 2008, p. 11833: a "good number" of RUF soldiers were in Voinjama and operated openly—their cars had big guns on them and they carried rifles.

<sup>829</sup> TF1-590, TT, 13 June 2008, pp. 11762-63: RUF Commanders CO Victor and CO Vandí, in the company of ATU and SOD members, were encouraging people to sign a contract. This took place in September 1998 when General Mosquito passed through Voinjama on his way to Monrovia and then returned in a convoy that included Chucky Taylor, Compaoré (Taylor's aide from The Gambia), ATU demon forces, SODs, SSS, and AFRC/RUF security and two Arab men. The security personnel stayed in Voinjama to recruit people to go to Sierra Leone (see further TF1-590, TT, 13 June 2008, pp. 11763-67, 11789).

<sup>830</sup> TF1-590, TT, 13 June 2008, p. 11769: the witness testified that was the first and last time he saw people offered money to go to Sierra Leone to fight, the rest were forced.

“hunted down.”<sup>831</sup> Civilians who refused to go were subjected to constant intimidation which included looting, beatings, and arrests.<sup>832</sup>

289. After fighting broke out in Voinjama in April 1999,<sup>833</sup> the pressure for Sierra Leonean manpower escalated. At a checkpoint near Gbarnga, fleeing civilians were “asked” to return to Voinjama or to “volunteer” to fight, and more than 50 civilians who refused to do so were angrily accused by Chucky Taylor of being Kamajors.<sup>834</sup> Chucky then chose four from the group to kneel in front of him and shot each one in the head—after the corpses were decapitated, one head was hung on a car while the others were hung at the checkpoint.<sup>835</sup> The rest of the detained civilians were stripped, tie-bayed and thrown into vehicles which took them to the Gbarnga police station where they were held with other Sierra Leoneans, including women and children.<sup>836</sup> Chucky and Compaoré, aide to President Taylor, took some of the group to Gbatala base, where they were tortured and held in small cement pits containing swamp water and rotting human remains.<sup>837</sup>
290. Three of these Sierra Leonean prisoners from Gbatala base were ultimately summoned to Congo Town by “the Papay,” arriving at Taylor’s residential compound in the middle of the night. Taylor asked the tie-bayed men before him if they were refusing to go to their country to fight when they were most needed, and when he received no answer, he asked if they were Kamajors sent to overthrow his government.<sup>838</sup> When they said no,

<sup>831</sup> TF1-590, TT, 13 June 2008, pp. 11769-70, 11776-78: in February 1999, the witness’ shop was looted and his brother was arrested by Liberian police, who said before they could release the brother, the witness would have to go to Kailahun or Sierra Leone to fight in Kenema.

<sup>832</sup> TF1-590, TT, 13 June 2008, pp. 11770-71, 11776-77.

<sup>833</sup> TF1-590, TT, 13 June 2008, pp. 11778-80 and 16 June 2008, p. 11833: Voinjama was attacked by unknown armed men, and the Liberian security forces and RUF put down the attack.

<sup>834</sup> TF1-590, TT, 13 June 2008, pp. 11781-84.

<sup>835</sup> TF1-590, TT, 13 June 2008, pp. 11784-85.

<sup>836</sup> TF1-590, TT, 13 June 2008, pp. 11785-87.

<sup>837</sup> TF1-590, TT, 13 June 2008, pp. 11787-813: Chucky and his ATU forces beat the witness and other prisoners extensively, sometimes with their guns, forced them to eat hot cassava stems (like sticks) which burned the inside of their mouths, dropped melting plastic all over their bodies, forced them to watch the beheading of one of the prisoners who had attempted to escape as a “lesson,” dropped melted candle wax on their buttocks and private parts, burned their skin with lit cigarettes, burned the soles of their feet with a lit candle, and Chucky stabbed the witness in the leg with a bayonet. See also TF1-590, TT, 16 June 2008, pp. 11844-46 regarding Defence Minister Daniel Chea’s efforts to clean up the prisoners before the UNHCR representative saw them, and also regarding the extent of the witness’ injuries; [REDACTED]

[REDACTED] The Accused, more than a year after this evidence was presented, still maintained: “Any human on this planet that says that there was torture during the Charles Taylor administration is a liar and I challenge them to bring any evidence. It’s not true.” (Accused, TT, 3 November 2009, p. 30952.) However, Taylor admitted that he heard about people being killed at Gbatala and “different things” when he was President and states he investigated (see Accused, TT, 23 November 2009, p. 32293).

<sup>838</sup> TF1-590, TT, 13 June 2008, pp. 11810, 11813-16, 11818-20 and 16 June 2008, pp. 11836-40: the witness believed Taylor asked if they were Kamajors to justify their arrest, torture and punishment, saying it was

they were registered refugees, Taylor threatened that if they did not say the truth, they would be taken to the beach and beheaded.<sup>839</sup>

Taylor sent fighters as reinforcements for Kono and Freetown operations

*Former ULIMO fighters*

291. After the Camp Johnson Road incident in Monrovia in September 1998, Taylor found a win-win solution to deal with the problem of having ULIMO fighters, his former enemies, close by in Liberia. Taylor sent battle-hardened ULIMO veterans to Sierra Leone, strengthening the rebel forces while simultaneously decreasing the likelihood that ULIMO fighters would turn against his own regime in Liberia. Taylor instructed former ULIMO-K commander Varmuyan Sherif to “look for one of the most senior officers” of the former ULIMO-K to work alongside Sam Bockarie in Sierra Leone so that other former ULIMO-K fighters would feel free to do the same.<sup>840</sup>
292. Sherif approached Abu Keita, “one of the most senior officers” he could think of,<sup>841</sup> and took him to Musa Cisse’s house, where Benjamin Yeaten proposed a plan formed with the Accused: to command a troop called the “Scorpion Unit” which would serve as a stand-by force in Buedu alongside Bockarie’s forces.<sup>842</sup> Keita ultimately accepted the job and was soon on his way to Sierra Leone with Marzah, Sampson and Jungle, accompanied by three former NPFL bodyguards and carrying his newly issued AK-47, a pistol, and 10 boxes of ammunition—all of which were given to him by Yeaten.<sup>843</sup>
293. A couple of weeks after Keita arrived in Sierra Leone, Bockarie returned with 150 men from Camp Naama in Liberia.<sup>844</sup> However, Bockarie informed Keita there was not going to be any double command on the grounds of the RUF, and the men were integrated into other RUF units while Keita was given his own assignments.<sup>845</sup>

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“definite” in Liberia that if you were asked by security forces to do anything and you refused, it meant you were against them, so they would call you a rebel or Kamajor to justify whatever they did.

<sup>839</sup> TF1-590, TT, 13 June 2008, p. 11816.

<sup>840</sup> TF1-406, TT, 9 January 2008, pp. 856-57.

<sup>841</sup> TF1-406, TT, 9 January 2008, p. 857-59: Keita was deputy chief of staff of ULIMO-K and a Major General in rank.

<sup>842</sup> TF1-276, TT, 23 January 2008, pp. 1962-66, 1970-71: Sherif freed Keita from Saw Beach Prison, where he had been held since around the time of the Camp Johnson Road incident.

<sup>843</sup> TF1-276, TT, 23 January 2008, pp. 1966-71, 1976-83: In addition, Keita was introduced to Sam Bockarie, Eddie Kanneh and other RUF officials at Yeaten’s house about a week after the first meeting when he accepted the job, and was subsequently taken to White Flower with Bockarie, where he met Charles Taylor.

<sup>844</sup> TF1-276, TT, 23 January 2008, p. 1995; TF1-045, TT, 13 November 2008, pp. 20219, 20222-23.

<sup>845</sup> TF1-276, TT, 23 January 2008, p. 1999. Keita went on to fight with the RUF forces in the Segbwema offensive, against Mosquito Spray in Lofa County in August 1999, the attack on Madina Wola in Guinea in

Bockarie sent Keita, some of Taylor's Liberian reinforcement personnel, and AFRC/RUF fighters, to attack and capture Kenema via Bunumbu, Segbwema, Daru, and other locations along that axis. During the attacks on these locations, consistent with the orders received, this combined force killed civilians and burned down villages.<sup>846</sup>

294. After the Fitti Fatta attack on Koidu Town, Bockarie sent Senegalese with a group of Liberian fighters to reinforce Superman's forces who had joined up with SAJ Musa in Koinadugu.<sup>847</sup> The combined force, including Taylor's Liberian reinforcements, attacked ECOMOG in Mongor Bendugu and Kabala.<sup>848</sup>

*Red Lion battalion*<sup>849</sup>

295. The evidence indicates that these Liberian forces which had been sent as reinforcements to Superman, along with existing AFRC, RUF and STF personnel, were formed into a unit called the Red Lion battalion.<sup>850</sup> The group was well-armed, carrying submachine guns, 60-millimetre mortars, and several types of rifles.<sup>851</sup> SAJ Musa and Superman ordered the Red Lion battalion to join Gullit's forces around Colonel Eddie Town.<sup>852</sup>

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2000, and as commander of the Scorpion Unit in the attack on Gueckedou in 2001 (see TF1-276, TT, 23 January 2008, pp. 2009-10, 2045-54; Exh. P-28).

<sup>846</sup> TF1-276, TT, 23 January 2008, pp. 2009-10; TF1-045, TT, 13 November 2008, pp. 20219-24.

<sup>847</sup> TF1-584, TT, 19 June 2008, pp. 12247-53, 12258-59: Senegalese told the witness he had come from Liberia and was sent by Charles Taylor to Bockarie. He spoke Liberian English, no Krio, and had 30 Liberian men with him. See also TF1-334, 22 April 2008, pp. 8196-99; TF1-585, TT, 8 September 2008, pp. 15705-07: the witness saw fighters in Buedu from Liberia who spoke Liberian English. Bockarie sent the fighters with Senegalese to Kono to join Superman to attack Koidu then move to Kabala for a combined mission, and from Kabala they should proceed to Freetown; TF1-375, TT, 24 June 2008, pp. 12566-68.

<sup>848</sup> See further Section VI., para. 497.

<sup>849</sup> See further Section VI., paras. 535-36.

<sup>850</sup> TF1-584, TT, 19 June 2008, pp. 12259-60: O-Five led the Red Lion battalion from Koinadugu to join the SLAs who had been cut off at Rosos; TF1-334, TT, 21 April 2008, pp. 8177-79 and 22 April 2008, pp. 8193-203: When O-Five met up with Gullit's forces, he introduced the men he came with at a muster parade. O-Five's group included SLA, RUF, STF and the Liberian fighters who had joined Superman's group in Kailahun as reinforcements and had proved themselves in the captures of Mongo and Kabala and were thus being sent to reinforce the forces preparing to invade Freetown. O-Five said these Liberians were former NPFL fighters and had gone through AFL training. There were about 20 Liberian reinforcements and 30 STF, so almost 50 Liberians altogether in the group. The group was then divided and the Red Lion battalion was formed. The STF and former NPFL fighters who came as reinforcements were based in the Red Lion battalion and were not separated; TF1-375, TT, 24 June 2008, pp. 12566-77.

<sup>851</sup> TF1-334, TT, 21 April 2008, p. 8177 and 22 April 2008, pp. 8200-01.

<sup>852</sup> TF1-334, TT, 29 April 2008, p. 8939. See also TF1-143, TT, 5 May 2008, pp. 9048-54, 9019-9021: the witness, a 12-year-old child soldier at the time of the events, testified that his group met the Red Lion group at Colonel Eddie Town (at 9051). Most in the group had on red bands, and they did not speak Krio. Kabila had told him they were Liberians; TF1-028, TT, 7 May 2008, pp. 9205-10, 9214-18: the witness, captured in Karina, was with Five-Five and Gullit's group when the reinforcements from Superman arrived at Eddie Town. Everyone was happy, saying they were now going to Freetown because Superman had sent reinforcement with a good amount of ammunition. The group of reinforcements was up to 100 or more, with some Sierra Leoneans

- After the move, the Red Lion radio operators with Gullit maintained regular communication with SAJ Musa and Superman in Koinadugu and Mosquito in Buedu.<sup>853</sup>
296. The fighters in the Red Lion battalion were fierce and posed a dangerous threat to ECOMOG and civilians as well.<sup>854</sup> They took part in attacks against civilians, including at Kukuna<sup>855</sup> and Mange Bureh,<sup>856</sup> as well as in the campaign toward Freetown with the other advancing forces, committing atrocities against civilians in Koinadugu, Bombali and Port Loko Districts as they attacked villages along the way.<sup>857</sup> These atrocities were part of the campaign of terror and widespread and systematic attack on the civilian population of Sierra Leone. As the brigade advanced, fighters wrote messages including “NFPL heading for Freetown” on the walls of houses.<sup>858</sup> TF1-028, who was abducted in Karina and travelled with the group moving toward Freetown, testified, “they were burning houses and killing people, that was the time that the other soldiers were saying, ‘SLA – NPFLA advance, advance.’”<sup>859</sup>
297. Once inside Freetown, the former NPFL fighters in the Red Lion battalion were part of the group that went to open Pademba Road Prison because the forces expected a heavy target and wanted to be well prepared.<sup>860</sup> They also participated in the attack on

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and some Liberians. The group was called Red Lion and they all had red headbands. The commander was Mohamed Bajehjeh.

<sup>853</sup> TF1-360, TT, 6 February 2008, pp. 3194, 3203-04, 3223-24; TF1-275, TT, 22 February 2008, pp. 4525-29.

<sup>854</sup> TF1-334, TT, 23 April 2008, pp. 8320-21.

<sup>855</sup> TF1-334, TT, 22 April 2008, pp. 8204-07: the attack included the killing of civilians, looting of civilian property and the burning of houses. See further TF1-334, TT, 22 April 2008, p. 8217: Gullit called Mosquito about the Kukuna operation as well as SAJ Musa; TF1-360, TT, 6 February 2008, pp. 3201-02: during the attack, some civilians were saved to carry loads, but the rest the group met were killed, and part of Kukuna was burnt down.

<sup>856</sup> TF1-334, TT, 22 April 2008, pp. 8209-10: a small part of the Red Lion battalion took part in the Mange Bureh operation, which involved burning of houses and looting. Mange Bureh is in Port Loko district. See further TF1-334, TT, 22 April 2008, p. 8217: Gullit spoke to Mosquito about the operation in Mange Bureh – he always spoke to Mosquito before informing SAJ.

<sup>857</sup> TF1-334, TT, 22 April 2008, pp. 8225-28, 8233-44, 8250, 8269-75: the Red Lion battalion left Colonel Eddie Town along with the other battalions advancing toward Freetown. It was headed by Lieutenant Colonel Med Bajehjeh. Red Lion and the other groups attacked the villages as they passed, including Mange Bureh in Port Loko, Maraykula (where they put the houses on the village on fire), Lunsar in Bombali District, Masiaka (burnings), and Waterloo (looting). The Red Lion battalion had SBUs as well; TF1-360, TT, 6 February 2008, pp. 3212-14: the group agreed to “move like guerrillas,” leaving Rosos for Freetown in early December, attacking along the way from Madina to Benguema, burning down houses, abducting civilians to carry loads, and cutting hands; TF1-143, TT, 5 May 2008, pp. 8988-91, 8994-9000, 9025: the witness described atrocities during the advance to Freetown with the Red Lion battalion, which mixed with their group at Colonel Eddie Town; TF1-028, TT, 7 May 2008, pp. 9223-28: the witness described some of the crimes that occurred as the Red Lion battalion and other groups advanced and entered Freetown.

<sup>858</sup> TF1-334, TT, 21 April 2008, p. 8157.

<sup>859</sup> TF1-028, TT, 7 May 2008, p. 9220, 9253.

<sup>860</sup> TF1-334, TT, 22 April 2008, pp. 8282-83. TF1-360, TT, 6 February 2008, pp. 3225-27: the operation at Pademba Road Prison went “perfectly” – they drove away all the securities, used force on the officers to open

Kingdom, knocking on civilians' doors, pulling them out and killing them and also burning houses with people alive inside.<sup>861</sup> During the withdrawal, they helped wreak havoc in Fourah Bay and Uppun, burning houses and killing civilians, making sure nobody escaped.<sup>862</sup> A.B. Sesay, who fought alongside these combatants in Freetown, said the other fighters were always happy when they saw the Red Lion battalion amongst them because they were hard and fierce fighters.<sup>863</sup>

Well, this battalion, wherever they got to they will come in a most powerful way [...] if it comes to attack they will perform very well. If it comes to burning they would do it to extremes. So wherever Red Lion got to, that was danger.<sup>864</sup>

298. During the Invasion, the forces in Freetown with the Red Lion group were in direct communication with Sam Bockarie, providing situation reports every morning, afternoon and evening and receiving Bockarie's orders in return, such as to make areas fearful, destroy certain targets and set road blocks.<sup>865</sup> Daily communication with Superman was also maintained by two of his bodyguards fighting with Gullit's group.<sup>866</sup>

#### *Other troops*

299. During the retreat from Freetown in 1999, the AFRC/RUF forces proceeded from Waterloo to Newton, where they created a strong blocking action.<sup>867</sup> A group of former SLAs who had been re-organized, armed and sent from Taylor to Bockarie joined with the forces in Newton in March/April 1999.<sup>868</sup> They assisted with the blocking action and then remained until 2000 with former SLAs who had broken off into the West Side Boys unit.<sup>869</sup>

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the gates and beat some of the securities who delayed them. Sankoh was not there but they opened the gates and let everybody out.

<sup>861</sup> TF1-334, TT, 22 April 2008, pp. 8294-98.

<sup>862</sup> TF1-334, TT, 23 April 2008, pp. 8332-34.

<sup>863</sup> TF1-334, TT, 22 April 2008, pp. 8298-99 and 23 April 2008, pp. 8319-21: the former NPFL fighters had red headbands to signify danger, with "NPFL" written on them.

<sup>864</sup> TF1-334, TT, 23 April 2008, p. 8320.

<sup>865</sup> TF1-360, TT, 6 February 2008, p. 3229-32: further, any information Gullit failed to tell Mosquito was King Perry's responsibility to tell him; TF1-584, TT, 19 June 2008, p. 12275.

<sup>866</sup> TF1-275, TT, 22 February 2008, pp. 4565-66; TF1-360, TT, 6 February 2008, pp. 3259-61.

<sup>867</sup> TF1-334, TT, 23 April 2008, pp. 8398-99.

<sup>868</sup> TF1-334, TT, 23 April 2008, pp. 8400-04.

<sup>869</sup> TF1-334, TT, 23 April 2008, pp. 8401-04.

Taylor provided facilitators: escorts, couriers, liaisons and herbalists

300. In addition to fighters, Taylor frequently sent trusted subordinates to Sierra Leone where they performed a variety of roles, acting as security escorts, couriers, and messengers or liaisons. These include: Zigzag Marzah,<sup>870</sup> Jungle,<sup>871</sup> Sampson Weah,<sup>872</sup> Junior or JR,<sup>873</sup> Dopoe Menkarzon,<sup>874</sup> Varmuyan Sherif,<sup>875</sup> CR<sup>876</sup> and Christopher Varmoh aka Liberian Mosquito.<sup>877</sup> These individuals spent considerable time in AFRC/RUF territory while crimes against civilians were being committed<sup>878</sup>—Marzah, Sampson and Jungle had houses in Buedu,<sup>879</sup> and Marzah kept two “wives” in Sierra Leone.<sup>880</sup>

*Security Escorts*

301. Taylor’s subordinates escorted RUF, AFRC/RUF personnel to Taylor or other locations in Liberia, especially after Taylor became President. Taylor used these escorts as a guarantee that there would be no interference with his directive to move materiel or personnel, their presence signalling that they were travelling pursuant to Taylor’s orders.<sup>881</sup> Escorts were often sent to accompany the so-called big men of the AFRC/RUF. For example, shortly after the Intervention, Taylor sent his SSS Assistant

<sup>870</sup> See for example TF1-567, TT, 2 July 2008, pp. 12903-04, 12906; TF1-274, TT, 2 December 2008, pp. 21490-92; [REDACTED]; TF1-516, TT, 8 April 2008, pp. 6951, 6953-55, 6957; TF1-568, TT, 12 September 2008, p. 16142.

<sup>871</sup> See for example TF1-567, TT, 2 July 2008, pp. 12903-04; TF1-274, TT, 2 December 2008, pp. 21490-92; TF1-579, TT, 5 November 2008, pp. 19830-33; TF1-388, 18 July 2008, p. 14036; TF1-516, TT, 8 April 2008, pp. 6951-55, 6957; [REDACTED]; TF1-375, TT, 23 June 2008, pp. 12535-38; TF1-568, TT, 12 September 2008, pp. 16139-42.

<sup>872</sup> See for example TF1-579, TT, 5 November 2008, pp. 19830-33; TF1-388, TT, 18 July 2008, p. 14036; [REDACTED]; TF1-375, TT, 23 June 2008, pp. 12535-38.

<sup>873</sup> See for example TF1-585, TT, 5 September 2008, pp. 15618-19; TF1-388, TT, 10 July 2008, pp. 13384-92.

<sup>874</sup> [REDACTED]; TF1-516, TT, 8 April 2008, pp. 6951-55, 6957.

<sup>875</sup> TF1-406, TT, 9 January 2008, pp. 828-30. See also TF1-337, TT, 5 March 2008, p. 5302-05: after the killing of the suspected Kamajors, the witness read in a radio log book that Taylor had sent one of his commanders to take Bockarie to Liberia so they could meet in Monrovia; TF1-567, TT, 2 July 2008, pp. 12906-07: Mosquito told the witness that Varmuyan Sherif was sent by the Papay to come and see him. TF1-375, TT, 23 June 2008, p. 12494: Jungle complained that he had gone along with Varmuyan Sherif to bring Bockarie to Monrovia and now, in 2001, Bockarie was “side-lining” him.

<sup>876</sup> TF1-276, TT, 23 January 2008, pp. 1974-75; [REDACTED]

<sup>877</sup> See for example TF1-274, TT, 2 December 2008, pp. 21490-92; TF1-516, TT, 8 April 2008, p. 6957; TF1-568, TT, 12 September 2008, pp. 16139-43; [REDACTED].

<sup>878</sup> See evidence at Section IX.

<sup>879</sup> [REDACTED]; DCT-215, TT, 26 March 2010, p. 38110.

<sup>880</sup> TF1-399, TT, 13 March 2008, p. 5982. See also [REDACTED].

<sup>881</sup> TF1-399, TT, 12 March 2008, pp. 5889-90, 5912; TF1-579, TT, 5 November 2008, p. 19835.



Director of Operations, Varmuyan Sherif, to bring Bockarie to Monrovia.<sup>882</sup> On numerous other occasions, “Liberian brothers” such as Jungle, Sampson, Junior or JR, and Zigzag escorted Bockarie to and/or from their meetings with Taylor or Yeaten.<sup>883</sup>

#### *Couriers*

302. Throughout the Indictment period, the Accused’s subordinates also acted as escorts and couriers of his shipments of arms and ammunition to the AFRC/RUF, including materiel for the end of 1998 multi-axis offensive culminating in the attack on Freetown.<sup>884</sup> Communications between Taylor’s radio operators and those of the AFRC/RUF performed a vital role in planning, as messages were sent to the AFRC/RUF alerting them that subordinates such as Jungle or Zigzag were on their way with materiel.<sup>885</sup> Trips with these materials or personnel were frequently made at night or involved other precautions to avoid any possible monitoring.<sup>886</sup>
303. On at least one occasion, Taylor’s Liberian subordinates themselves distributed weapons to AFRC/RUF fighters rather than giving them to a commander to distribute to his forces. Fighters in Buedu who were sent to reinforce Superman and “clear” Kono District in 1998 stood in lines as Taylor’s soldiers, who spoke Liberian English and wore red military caps and combat uniforms, handed out AK-47s they had brought with

<sup>882</sup> TF1-406, TT, 9 January 2008, pp. 828-30. See also TF1-337, TT, 5 March 2008, p. 5302-05; TF1-567, TT, 2 July 2008, pp. 12906-07; TF1-375, TT, 23 June 2008, p. 12494.

<sup>883</sup> See for example TF1-567, TT, 2 July 2008, p. 12903; TF1-585, TT, 5 September 2008, pp. 15617-18; [REDACTED]; TF1-274, TT, 2 December 2008, pp. 21447, 21451-53.

<sup>884</sup> See for example TF1-276, TT, 23 January 2008, p. 1992; TF1-585, TT, 8 September 2008, p. 15664; [REDACTED]; TF1-516, TT, 8 April 2008, pp. 6951-55; TF1-579, TT, 5 November 2008, pp. 19846-48; TF1-399, TT, 12 March 2008, pp. 5882-83, 5885-91; TF1-274, TT, 2 December 2008, pp. 21452-55.

<sup>885</sup> See for example TF1-274, TT, 2 December 2008, pp. 21490-92 and TT, 3 December 2008, p. 21554; [REDACTED]; TF1-585, TT, 8 September 2008, pp. 15652-57.

<sup>886</sup> TF1-567, TT, 2 July 2008, pp. 12903-04: Mosquito advised Zigzag Marzah, Jungle and the others who had brought ammunition to return (to Liberia) that night for security reasons, so they were not there until day break when civilians would know about the mission they were running; TF1-399, TT, 12 March 2008, pp. 5890, 5912: describes that his own presence in the truck would ensure there was no “embarrassment” and the officers would not stop to check what was in the convoy; TF1-406, TT, 9 January 2008, pp. 855-856: Sherif described changing out of his special operations uniform (as shown in Exh. P-27B, taken in Foya, Liberia) when he was going to the border because civilians could identify the uniform as executive management. (See Exh. P-27A showing Sherif and his bodyguards dressed in civilian clothing in Mendekoma, Sierra Leone during one such shipment). On his way back to Monrovia, Sherif would change back into the uniform; TF1-579, TT, 25 November 2008, pp. 21119-22: witness described not wearing uniforms on weapons delivery missions for security reasons - this prevented civilians from knowing the government was supplying RUF weapons.

them in two vehicles. After receiving the weapons, Bockarie's fighters travelled to PC Ground, Kono District and launched an unsuccessful attack on ECOMOG at Koidu.<sup>887</sup>

304. The supplies sent by Taylor to the RUF and the AFRC/RUF were not a "one-way street." In return, the Accused received diamonds from Sierra Leone which were often carried by his trusted Liberian subordinates, Jungle and Zigzag. This is discussed in detail in Section III of this Brief.

#### *Messengers and Liaisons*

305. Taylor also used Jungle, Marzah, Sampson, Yeaten and other trusted subordinates to relay "advice" to Bockarie and to receive briefings that were then reported back to Taylor and/or Yeaten in Liberia.<sup>888</sup>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>889</sup>

#### *Herbalists for the Fitti Fatta operation*

306. Taylor played on whatever beliefs his fighters had in order to maximize their willingness to carry out his bidding, regardless of his own personal beliefs.<sup>890</sup> Just as he had done in Liberia for NPFL fighters,<sup>891</sup> Taylor sent Liberian herbalists to bolster the courage of AFRC/RUF fighters before the Fitti Fatta operation to retake Koidu.<sup>892</sup> The herbalists were first sent to Sam Bockarie, who introduced them to Superman in

<sup>887</sup> TF1-263, TT, 6 October 2008, pp. 17936-41: the witness, an RUF child soldier, was told that the soldiers who brought the weapons were Taylor's soldiers.

<sup>888</sup> See for example TF1-375, TT, 23 June 2008, pp. 12524-27: at a senior officer's forum at Superman Ground, Liberians including Osebo Dehmy (Ocebio Dehmie), or "59" advised the AFRC/RUF commanders to back Koidu Town because it would be important for them; TF1-585, TT, 8 September 2008, pp. 15722-26: two days after the Freetown invasion, Yeaten came to Buedu to see Bockarie; TF1-274, 3 December 2008, pp. 21582, 21585-86: Yeaten gave Bockarie instructions from Taylor to make sure he told Gullit and others (during the Freetown invasion) to dispatch the big name prisoners who had been released from Pademba Road prison to Buedu—they should not be at the front line.

<sup>889</sup> [REDACTED]

<sup>890</sup> See for example Accused, TT, 30 September 2009, p. 29979 where Taylor emphatically stated he did not believe in juju.

<sup>891</sup> TF1-375, TT, 23 June 2008, pp. 12527-28: the Liberians marking the fighters said during the NPFL time under Taylor, they did the same thing to the NPFL fighters and that was why they succeeded. Taylor, however, denied ever using herbalists with the NPFL (see Accused, TT, 16 September 2009, p. 29028).

<sup>892</sup> TF1-584, TT, 19 June 2008, pp. 12238, 12310-15: one of the herbalists, a Gbandi woman, told the witness that Charles Taylor had sent them to Sam Bockarie so they would protect the fighters' bodies from bullets, particularly so they could recapture Koidu Town from ECOMOG; TF1-375, TT, 23 June 2008, pp. 12524-26: eight Liberians came to Superman's ground and said they had their medicine men to put protection marks on them and that they should try and take over Koidu Town; TF1-360, TT, 5 February 2008, pp. 3164-67: Taylor sent herbalists to Buedu before the Fitti Fatta mission to inspire the fighters so they would have no fear of attacking Kono. Sam Bockarie introduced herbalists as coming from Taylor.

Buedu.<sup>893</sup> Bockarie then handed the herbalists over to Superman to take back to his base, where he was to call other commanders to bring men to be marked before trying to retake Koidu.<sup>894</sup> Superman, the herbalists, and 200-300 armed men then travelled from Buedu back to Superman's Ground, where Superman issued a radio directive for commanders and the fighters selected for the Koidu operation to report for marking.<sup>895</sup> Komba, Bai Bureh, Rambo and Rocky CO then travelled to Superman's base with their fighters.<sup>896</sup> The herbalists used razor blades to inflict numerous cuts or "marks" on hundreds of fighters,<sup>897</sup> even if they did not believe the marks would protect them.<sup>898</sup> Once marked, the fighters returned to their areas and launched the attack on Koidu.<sup>899</sup>

## II.F. COMMUNICATIONS

### Introduction

307. After the Accused withdrew most of his forces from Sierra Leone in mid-1992, RUF and later AFRC/RUF continued to benefit from the radio operators Taylor sent to work with them and from the training and equipment he provided. During the period the border access was severely restricted, radio communications continued and became the primary means of contact between Taylor and the RUF. This radio communication continued throughout the remainder of the conflict in Sierra Leone. Later, Taylor also communicated with the leaders of the RUF and AFRC/RUF via satellite phone, which he provided. Taylor used radio and satellite phone communications to facilitate his participation, involvement and concerted action with the AFRC/RUF, including to convey instruction, direction and guidance and exercise command over his surrogate forces.

<sup>893</sup> TF1-584, TT, 19 June 2008, pp. 12237-41, 12309, 12316; TF1-360, TT, 5 February 2008, pp. 3160, 3164-65.

<sup>894</sup> TF1-584, TT, 19 June 2008, pp. 12239-42, 12316; TF1-360, TT, 5 February 2008, pp. 3165-67: Bockarie gave the herbalists to Superman in Buedu and they returned to Koidu Town. Fighters from Kono then came to Superman Ground.

<sup>895</sup> TF1-584, TT, 19 June 2008, pp. 12241-42.

<sup>896</sup> TF1-584, TT, 19 June 2008, pp. 12242-43. See also TF1-360, TT, 5 February 2008, p. 3172: manpower for the Fitti Fatta mission came from all the camp areas.

<sup>897</sup> TF1-584, TT, 19 June 2008, p. 12243: there were up to 500 fighters at Superman's Ground; TF1-375, TT, 23 June 2008, p. 12528: sometimes the herbalists used one razor blade to mark 200-300 people. Witnesses TF1-375, TF1-584 and TF1-360 were all marked by the herbalists over 100 times: see TF1-375, TT, 23 June 2008, pp. 12528-29 (168 marks); TF1-584, TT, 19 June 2008, pp. 12244 (168 marks); TF1-360, TT, 5 February 2008, pp. 3165-66 (over 100 times).

<sup>898</sup> TF1-360, TT, 5 February 2008, p. 3166: Bockarie said if anybody refused to be carved, that person should be killed; TF1-375, TT, 23 June 2008, p. 12527: Superman forced his bodyguards to take the mark, including the witness, even though the witness said he did not believe in that.

<sup>899</sup> TF1-584, TT, 19 June 2008, pp. 12243-48.

Period Access to Border restricted

308. During the time access to the border was restricted, radio communications became the primary means by which Taylor provided critical instruction, direction and guidance.<sup>900</sup> Radio communication between the RUF and the NPFL stations, including from Sankoh to Treetop, Taylor's station in Gbarnga, was ongoing and never stopped.<sup>901</sup> Radio codes continued to be exchanged.<sup>902</sup> The Accused and Sankoh communicated frequently by radio—every few days—and messages went back and forth. Several witnesses were present when these communications took place.<sup>903</sup> The communications concerned information on the NPFL operations and their engagements with ULIMO along the border areas, including the ULIMO attack on the NPFL at Zorzor, Sierra Leone Army pressure on the RUF, RUF operations, RUF attacks, areas the RUF controlled in Sierra Leone, the defensive positions of the RUF, ammunition requests, and if the RUF had captured any heavy weapons.<sup>904</sup> Through radio sets provided by Taylor, Sankoh and his radio operators were able to communicate both with Charles Taylor in Liberia and, later, with the RUF external delegation in Ivory Coast through Musa Cisse aka Sesay, Taylor's subordinate in Danane, Ivory Coast. Taylor was also able to communicate with the RUF in Ivory Coast through Musa Cisse.<sup>905</sup> CO Nya—the NPFL man who had come to install this equipment—was still operating with the RUF in Sierra Leone at that time, as were other NPFL-trained radio operators such as DAF.<sup>906</sup>

<sup>900</sup> TF1-516, TT, 7 April 2008, pp. 6860; TF1-360, TT, 4 February 2008, p. 3049; TF1-274, TT, 1 December 2008, pp. 21385-91; See Section II.F.

<sup>901</sup> TF1-274, TT, 1 December 2008, pp. 21385-86.

<sup>902</sup> TF1-274, TT, 1 December 2008, pp. 21378-21379; TF1-360, TT, 4 February 2008, p. 3049.

<sup>903</sup> See for example TF1-360, TT, 4 February 2008, p. 3049; TF1-567, TT, 2 July 2008, p. 12869; TF1-045, TT, 12 November 2008, p. 20109; TF1-274, TT, 1 December 2008, p. 21393; TF1-275, TT, 20 February 2008, p. 4383.

<sup>904</sup> TF1-045, TT, 12 November 2008, pp. 20109-10 and 13 November 2008, pp. 20164-65; TF1-360, TT, 4 February 2008, pp. 3051-55; TF1-567, TT, 2 July 2008, pp. 12869-70; TF1-274, TT, 1 December 2008, pp. 21390-91.

<sup>905</sup> [REDACTED]; TF1-274, TT, 1 December 2008, pp. 21392-93; DAF stayed in Sandeyalu until November 1993 at which time ULIMO had captured the border and the RUF had direct command over Foya. He then went to Koindu with Sankoh until December 1993 and while there contacted Taylor on Sankoh's request; [REDACTED]

[REDACTED]; TF1-045, TT, 12 November 2008, p. 20125; DCT-306, TT, 14 April 2010, p. 38950; DCT-172, TT, 5 July 2010, p. 43661.

<sup>906</sup> [REDACTED]; TF1-274, TT, 1 December 2008, pp. 21392-93; DAF stayed in Sandeyalu until November 1993 at which time ULIMO had captured the border and the RUF had direct command over Foya. He then went to Koindu with Sankoh until December 1993 and while there contacted Taylor on Sankoh's request; [REDACTED]; DCT-172, TT, 5 July 2010, p. 43661.

### 1997 to 25 May Coup

309. During the initial period of Sankoh's detention in Nigeria until on or about the 25 May 1997 coup, Sankoh used the NPFL radio network to communicate to the RUF in Sierra Leone. Sankoh would give messages to Martin Moinama aka The Cat, who was with him in Nigeria, who would then telephone an NPFL radio operator who would transmit the message to the respective RUF radio operator in Sierra Leone.<sup>907</sup> Sankoh also spoke with Taylor over the telephone.<sup>908</sup>

### Junta Period

310. Throughout the Junta period, there were frequent communications between Johnny Paul Koroma and Charles Taylor.<sup>909</sup> In addition, Yeaten communicated with the Junta via Sam Bockarie in Kenema, initially through contact with Sellay Duwoh who was in Kenema with Bockarie. Typically, Yeaten's radio operator would contact Duwoh, a Liberian whom Bockarie appointed overall signals commander and one of Bockarie's primary operators during the Junta. Yeaten's radio operator would instruct Duwoh to turn on the "21" meaning the satellite phone.<sup>910</sup> In late 1997, Bockarie also communicated by radio with Memuna Deen, the RUF radio operator based with Musa Sesay aka Cisse in Liberia. The communication related to one shipment of ammunition Taylor sent to Bockarie, which was later delivered by Memuna Deen and Fonti Kanu.<sup>911</sup>

### Post Intervention

311. While Bockarie was leader of the RUF, the "leading" station that Charles Taylor used to communicate with Bockarie and the AFRC/RUF was Base 1,<sup>912</sup> located at Benjamin Yeaten's residence at the back of White Flower.<sup>913</sup> Sunlight was Base 1's primary operator responsible for communications to Sam Bockarie.<sup>914</sup> Dew also worked as a radio operator for Base 1.<sup>915</sup> Another of Taylor's radio operators who communicated

<sup>907</sup> TF1-275, TT, 21 February 2008, pp. 4490-93; TF1-338, TT, 1 September 2008, pp. 15114-15.

<sup>908</sup> TF1-275, TT, 21 February 2008, pp. 4490-92.

<sup>909</sup> TF1-597, TT, 21 May 2008, pp. 10455; TF1-532, TT, 11 March 2008, pp. 5725-26.

<sup>910</sup> TF1-275, TT, 21 February 2008, p. 4426; TF1-516, TT, 8 April 2008, pp. 6911-15; TF1-585, TT, 5 September 2008, pp. 15604-06.

<sup>911</sup> TF1-274, TT, 2 December 2008, pp. 21428-36; [REDACTED].

<sup>912</sup> TF1-274, TT, 2 December 2008, pp. 21450, 21481-83; TF1-568, TT, 12 September 2008, p. 16127.

<sup>913</sup> TF1-274, TT, 2 December 2008, pp. 21450; TF1-516, TT, 8 April 2008, p. 6853; DCT-008, 24 August 2010, p. 47025.

<sup>914</sup> TF1-274, TT, 2 December 2008, pp. 21441, 21482; TF1-585, TT, 8 September 2008, p. 15632.

<sup>915</sup> TF1-568, TT, 8 September 2008, p. 15632; TF1-516, TT, 8 April 2008, p. 6890; DCT-008, TT, 3 September 2010, pp. 47905-11.

with the AFRC/RUF was Sky One.<sup>916</sup> The radio station at the Executive Mansion was also in regular contact with the Buedu HQ station.<sup>917</sup> Communication between the Buedu HQ station and Base 1 was regular and free flowing and kept Base 1 apprised of the activities in Sierra Leone.<sup>918</sup> Communications between Base One and Buedu were more frequent when operations or other significant events were occurring.<sup>919</sup>

312. Benjamin Yeaten's operators, specifically Sunlight, and operators at other stations such as 020 (Executive Mansion) and Foxtrot Yankee (Foya) had access to the AFRC/RUF codes,<sup>920</sup> enabling them to communicate with and monitor AFRC/RUF communications. In one instance, DAF personally delivered a new set of codes to Sunlight in Monrovia.<sup>921</sup> Certain other designated Liberian stations also had the code and could monitor the communications net. When Yeaten and Bockarie communicated on the radio, they would move to a pre-designated or secret frequency to communicate.<sup>922</sup>
313. Taylor used radio and satellite phone communications to convey instructions, directions and guidance to the AFRC/RUF during this post-Intervention period, including summons to Monrovia<sup>923</sup> and to coordinate trips with ammunition and other supplies.<sup>924</sup> For example, during the Intervention and the AFRC/RUF retreat, Bockarie was able to maintain radio lines of communication both with the retreating front line and Benjamin Yeaten. Around the time of the Intervention, Bockarie instructed radio operator DAF aka Dauda Fornie to contact Base 1 to inform them that the situation had gotten out of hand and that the retreating AFRC/RUF forces needed ammunition. Yeaten instructed Bockarie to immediately come to Monrovia.<sup>925</sup>

<sup>916</sup> TF1-516, TT, 8 April 2008, p. 6890.

<sup>917</sup> TF1-516, TT, 8 April, 2008, p. 6890-91 and 9 April 2008, pp. 6976, 7021, 7032. See also DCT-008, TT, 24 August 2010, p. 47048.

<sup>918</sup> See Section II.F. See also TF1-568, TT, 12 September 2008, pp. 16132-33, 16136-38.

<sup>919</sup> TF1-274, TT, 2 December 2008, pp. 21479, 21481-83.

<sup>920</sup> TF1-275, TT, 21 February 2008, pp. 4482-83; TF1-516, TT, 8 April 2008, pp. 6890-91, 6910-12.

<sup>921</sup> TF1-274, TT, 2 December 2008, p. 21516-17; TF1-516, TT, 8 April 2008, pp. 6912.

<sup>922</sup> TF1-585, TT, 8 September 2008, p. 15651.

<sup>923</sup> TF1-568, TT, 12 September 2008, p. 16136; TF1-274, TT, 2 December 2008, pp. 21490-91.

<sup>924</sup> TF1-360, TT, 5 February 2008, pp. 3117-18; TF1-275, TT, 21 February 2008, pp. 4483-86; TF1-568, TT, 8 September 2008, pp. 15652-54; TF1-274, TT, 2 December 2008, pp. 21490-91; TF1-568, TT, 12 September 2008, pp. 16138-39, 16141; TF1-516, TT, 8 April 2008, pp. 6947-55.

<sup>925</sup> TF1-274, TT, 2 December 2008, pp. 21441-43.

314. The Accused admitted he used the radio as a means of contact with Bockarie,<sup>926</sup> although Taylor preferred the phone.<sup>927</sup> As the Accused also told the Court, there were radio calls from the Executive Mansion with instructions to get Bockarie. There were many radio operators available to the Accused after he became President, and one of the operators who would convey such messages might have been Sunlight.<sup>928</sup> Taylor also had a connection set up at the border via the commander at Mendekoma. For messages from Taylor to Bockarie, Taylor's subordinates would call the commander at Mendekoma and the commander would in turn get the message across to Bockarie using Taylor's radio communication system at Mendekoma.<sup>929</sup> This procedure, of course, would have required knowledge of the codes for the AFRC/RUF.

#### Taylor's Subordinates Issues "448" Warnings

315. AFRC/RUF received "448" warnings, that is, warnings about ECOMOG jet sorties, from ex-SLA members who had trained in Morse code.<sup>930</sup> In addition, Taylor's subordinate radio operators in Monrovia also provided vital, early warning code 448 messages when ECOMOG jets left Monrovia to attack the AFRC/RUF forces in Sierra Leone. Warnings came from, among others, Sky 1, radio stations in Vahun and Foya, and through radio operator Sunlight in Monrovia. The warning was then passed on from Buedu to AFRC/RUF units throughout the country, including to SAJ Musa in Koinadugu.<sup>931</sup>

#### AFRC/RUF Used Taylor's radio Communications in Liberia

316. Taylor made his communications network in Liberia available to the AFRC/RUF who travelled there. During the time Bockarie travelled to Monrovia, Taylor's assistance enabled him to remain in communication with front lines in Sierra Leone. While in Monrovia on one of his first trips there after the Intervention, radio operator DAF, who accompanied Bockarie on this trip, regularly kept Bockarie apprised of what was happening through communications to commanders, including Issa Sesay and

<sup>926</sup> Accused, TT, 15 September 2009, p. 28858; stating he set up a radio at the guesthouse on Bockarie's second visit in order to be able to contact him by radio.

<sup>927</sup> Accused, TT, 25 November 2009, pp. 32465-66.

<sup>928</sup> Accused, TT, 16 September 2009, pp. 29090-91.

<sup>929</sup> Accused, TT, 16 November 2009, p. 31738.

<sup>930</sup> TF1-516, TT, 8 April 2008, pp. 6943-44.

<sup>931</sup> TF1-568, TT, 12 September 2008, pp. 16130-31; TF1-585, TT, 5 September 2008, pp. 15599-600 and 8 September 2008, pp. 15629-31 and 10 September 2008, pp. 15886-87; TF1-334, TT, 18 April 2008, pp. 8017-21.

Superman.<sup>932</sup> Taylor provided communications capability to Johnny Paul Koroma when he travelled to Monrovia in 1999.<sup>933</sup>

Communications during the multi-axis nationwide operation culminating in the 6 January 1999 attack on Freetown

317. Bockarie was in constant communication with Taylor and Yeaten throughout every stage of this multi-axis operation through both radio and phone communications. Yeaten followed the December 1998 attack on Koidu very closely.<sup>934</sup> Bockarie reported matters from the front line in situation reports to Base 1 and sometimes 020 by the phone. Bockarie's radio operator was commanded to communicate whatever information he had to stations inside and outside Sierra Leone.<sup>935</sup> Taylor and Yeaten got the usual reports and updates on the situation from the RUF operators in Monrovia<sup>936</sup> and also from their own radio operators.<sup>937</sup> During that period of time, as in the past, Taylor's operators, Base 1 in particular, actively monitored the Sierra Leonean net, including communications between Bockarie and Gullit.<sup>938</sup> Taylor's operators had access to the AFRC/RUF radio net and knew almost all the frequencies—nothing was hidden from them on the AFRC/RUF radio network.<sup>939</sup>
318. Bockarie communicated with Yeaten and Taylor immediately after the invasion of Freetown via radio and satellite phone. After the troops entered Freetown, Bockarie went on the BBC via his satellite phone and said that he was a man of his word—that he had given three days notice that his men would enter Freetown and indeed they had. Just after Bockarie made this announcement, he spoke with both Yeaten and Taylor. Bockarie confirmed to Yeaten via radio that the troops had indeed entered Freetown.<sup>940</sup> Yeaten congratulated him and said that if that was the case, then Yeaten would be there in two or three days and that his “father” would want to talk to Bockarie. Yeaten instructed Bockarie to switch to the satellite phone. Thereafter, Bockarie spoke to Charles Taylor via satellite phone, informing him that “our” men had entered Freetown,

<sup>932</sup> TF1-274, TT, 2 December 2008, p. 21449.

<sup>933</sup> Accused, TT, 12 August 2009, p. 26678.

<sup>934</sup> TF1-274, TT, 3 December 2008, p. 21555-57.

<sup>935</sup> TF1-516, TT, 8 April 2008, p. 6937 and 9 April 2008, pp. 6978-79.

<sup>936</sup> TF1-568, TT, 12 September 2008, pp. 16132-36.

<sup>937</sup> TF1-568, TT, 12 September 2008, pp. 16132-36.

<sup>938</sup> TF1-516, TT, 8 April 2008, p. 6939.

<sup>939</sup> TF1-516, TT, 8 April 2008, p. 6939.

<sup>940</sup> TF1-568, TT, 8 September 2008, pp. 15720-22.



were advancing and had captured State House.<sup>941</sup> Two days later, Benjamin Yeaten, accompanied by Sampson, Junior and Daniel Tamba aka Jungle came to Buedu, spent the night there and visited diamond-rich Kono the following day.<sup>942</sup>

319. If anything, the daily flow of communication between Buedu and Monrovia intensified in January 1999. Taylor and Yeaten received updates on the situation in Freetown directly from Bockarie. Bockarie and Yeaten were in contact several times a day, talking about such topics as arms and ammunition, food, supplies, fuel, consultation, and reports.<sup>943</sup> Almost immediately after learning that the AFRC/RUF troops in Freetown had not found Foday Sankoh in Pademba Road prison, Bockarie conveyed that information to Yeaten via satellite phone.<sup>944</sup>

#### 1999 Prior to Bockarie Seeking Refuge with Taylor in Liberia

320. Around the time of the Mosquito Spray incident in August 1999, the RUF sent a radio operator to work directly with Benjamin Yeaten to coordinate and ensure smooth communications between the Government of Liberia (GoL) and the AFRC/RUF.<sup>945</sup>
321. From about April 1999, communications also included instructions for the RUF to assist Taylor's efforts to repel attacks against his forces in Liberia.<sup>946</sup> In 1999, there were increasing radio communications between Sam Bockarie and Benjamin Yeaten concerning Bockarie's delivery of diamond parcels to the Accused either by himself directly or Eddie Kanneh.<sup>947</sup>
322. There were coded radio communications from Bockarie to inform Base 1 that Eddie Kanneh was en route to Liberia; Kanneh would confirm his arrival from stations Base 1 or 020. These communications concerning Eddie Kanneh's travel continued until the end of 2001.<sup>948</sup> In 2000, Taylor's radio operators in Liberia monitored communications

<sup>941</sup> TF1-585, TT, 8 September 2008, pp. 15722-23; TF1-568, TT, 15 September 2008, pp. 16176-78.

<sup>942</sup> TF1-585, TT, 8 September 2008, pp. 15718-25.

<sup>943</sup> TF1-568, TT, 12 September 2008, p. 16136: "every day we communicated with Sunlight... That besides, if at any time Charles Taylor needed to talk to Sam Bockarie then Sunlight would tell us that his Pa, Charles Taylor, said Sam Bockarie should go. That happened all the times that he needed him....," 15 September 2008, pp. 16175-79; TF1-274, TT, 3 December 2008, pp. 21589-90, 21614-15; TF1-516, TT, 8 April 2008, pp. 6937-39 and 9 April 2008, p. 6979. See also Accused, TT, 17 September 2009, pp. 29206-07.

<sup>944</sup> TF1-274, TT, 3 December 2008, pp. 21581-83, 21585-86.

<sup>945</sup> TF1-516, TT, 8 April 2008, pp. 6859-63, 6867, 6967. See also TF1-567, TT, 7 July 2008, pp. 13043-44; TF1-375, TT, 24 June 2008, pp. 12651-52; TF1-143, TT, 9 May 2008, pp. 9477-78; TF1-568, TT, 12 September 2008, p. 16134.

<sup>946</sup> TF1-274, TT, 2 December 2008, pp. 21488-92; TF1-360, TT, 6 February 2008, pp. 3273-74; TF1-516, TT, 8 April 2008, pp. 6966-74 and 9 April 2008, pp. 6975-99.

<sup>947</sup> TF1-516, TT, 10 April 2008, pp. 7164-72.

<sup>948</sup> TF1-516, TT, 10 April 2008, pp. 7170-72.

concerning mining in Kono, and Yeaten would regularly inquire as to the mining situation in Kono.<sup>949</sup>

*Sesay as Interim Leader*

323. Sesay moved the RUF headquarter station to Small Lebanon in Kono.<sup>950</sup> During Sesay's reign, RUF radio operators Memuna Deen,<sup>951</sup> Osman Tolo<sup>952</sup> and Marcus,<sup>953</sup> all based in Monrovia, continued to facilitate coordination. Radio operators who had earlier been redeployed from Sierra Leone to better coordinate the joint activities of the AFRC/RUF and Taylor Liberian forces remained in Liberia. The primary conduit for radio communications between Sesay and the Accused continued to be Benjamin Yeaten, who would issue directives and instructions on a variety of matters during regular radio and satellite phone communications with Sesay. Many of these communications concerned assistance to the Accused in his operations against the LURD offensive, which for some time focused on Lofa County in Liberia. For example, there were radio communications concerning coordinated attacks on Voinjama and Kolahun in Lofa County. Taylor also gave directives to Sesay directly and/or indirectly through his subordinates regarding AFRC/RUF attacks in Guinea.<sup>954</sup> The Accused's concern about diamond mining operations in Sierra Leone was also the subject of many communications, Taylor using these communications to manage AFRC/RUF diamond mining operations during this period. As demonstrated in Section III.A, RUF mining operations intensified under Sesay's tenure and there were frequent communications concerning mining operations as well as parcel deliveries from the RUF to the Accused. These communications related to very specific matters such as mining equipment, parcel deliveries, and quantity or quality of actual parcels.<sup>955</sup>

324. The Accused also used satellite phones to communicate with the RUF, and later AFRC/RUF. The evidence shows that Taylor had satellite phones from the early days

<sup>949</sup> TF1-516, TT, 10 April 2008, pp. 7169-70, 7178-80.

<sup>950</sup> TF1-568, TT, 15 September 2008, p. 16186.

<sup>951</sup> [REDACTED]; [REDACTED]; TF1-584, TT, 19 June 2008, p. 12296; [REDACTED]; TF1-516, TT, 9 April 2008, pp. 7106-08.

<sup>952</sup> [REDACTED]; [REDACTED]; TF1-516, TT, 9 April 2008, pp. 7106-08.

<sup>953</sup> [REDACTED]; TF1-516, TT, 9 April 2008, pp. 7106-07.

<sup>954</sup> TF1-568, TT, 12 September 2008, p. 16144; TF1-360, TT, 5 February 2008, p. 3083; TF1-516, TT, 9 April 2008, pp. 7040-56, 7066-70, 7112-14; TF1-360, TT, 6 February 2008, pp. 3273-75.

<sup>955</sup> TF1-516, TT, 10 April 2008, pp. 7164-72; TF1-568, TT, 15 September 2008, pp. 16186-92; TF1-360, TT, 6 February 2008, pp. 3267-68



## II.G. TRAINING

325. After the Intervention, Taylor continued to provide important training to the RUF and later the AFRC/RUF.

### Bunumbu

326. [REDACTED]  
[REDACTED]  
[REDACTED].<sup>970</sup> [REDACTED]  
[REDACTED].<sup>971</sup> The strongest of the small boys who were abducted during the retreat following the Intervention were trained in the Bunumbu training camp. Some of the small boys were as young as eight years old and many of them were sent to fight after their training was completed.<sup>972</sup>

327. [REDACTED]  
[REDACTED].<sup>973</sup> [REDACTED]  
[REDACTED]  
[REDACTED].<sup>974</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>975</sup>

### Use of Captured Heavy Weapons

328. At Bockarie's request, toward the end of December 1998, Taylor sent Martina Johnson, former NPFL artillery commander, to Buedu to conduct training to use a 40-barrel missile which had been captured by Issa Sesay.<sup>976</sup> Johnson was security commander at RIA in 1998 and her restaurant had been used for a meeting there regarding materiel coming into RIA, at least some of which was for the AFRC/RUF in Sierra Leone.<sup>977</sup>

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maintain confidential communications with the AFRC/RUF throughout the indictment period through satellite phones.

<sup>970</sup> [REDACTED]  
<sup>971</sup> [REDACTED]. See also TF1-567, TT, 2 July 2008, p. 12828.

<sup>972</sup> TF1-577, TT, 5 June 2008, pp. 11147, 11149-50 and 9 June 2008, pp. 11350-52.

<sup>973</sup> [REDACTED]

<sup>974</sup> [REDACTED]

<sup>975</sup> [REDACTED]

<sup>976</sup> [REDACTED]

<sup>977</sup> [REDACTED]; TF1-561, TT, 15 May 2008, p. 9906; TF1-406, TT, 9 January 2008, pp. 866-69.

<sup>977</sup> TF1-406, TT, 9 January 2008, pp. 866-69.

## II.H. SAFE HAVEN

329. During the years following withdrawal of the majority of his NPFL from Sierra Leone, Taylor continued to provide safe haven to the RUF, AFRC/RUF as needed, ensuring the continued existence of these groups and giving them the ability to regroup, reprovision and rest. And, as in the case of Sam Bockarie and his followers in December 1999, giving Taylor the opportunity to use his proxy forces in Liberia and later Ivory Coast.

### During 1996 RUF retreat from Zogoda

330. At the end of 1996, Sierra Leone government forces were able to push the RUF from its headquarters in Zogoda, forcing a massive retreat to Pujehun and Kailahun Districts. Some 2,000 RUF combatants retreated to Pujehun, where the RUF was also under attack. When their ammunition ran out and Taylor's efforts to resupply them were unsuccessful, these fighters and thousands of civilians were forced to cross into Liberia. Taylor then ensured that Mike Lamin obtained Liberian travel documents and money to facilitate Lamin's travel across Liberia to Ivory Coast to be reunited with Taylor's long-time ally, Foday Sankoh.<sup>978</sup>

### Intervention: Junta personnel via helicopter to Monrovia

331. In mid-February 1998 as the AFRC/RUF forces were flushed out of Freetown and forced to retreat to the northeast, a group of AFRC officials flew from Freetown to the man they knew would give them safe haven, Charles Taylor. This retreat to Taylor, whose country did not extradite individuals to Sierra Leone,<sup>979</sup> was with Taylor's knowledge and consent.<sup>980</sup> Having these experienced aviators and fighters and their aircraft would benefit Taylor in Liberia as well as give him the option of later returning them to action with the AFRC/RUF in Sierra Leone. The AFRC/RUF landed at Spriggs Payne Airport. Taylor attempted to give them safe haven, sending a delegation to receive them and stating that the AFRC personnel were coming to the headquarters. However, Taylor's men were intercepted by ECOMOG and thus unable to receive the fleeing Junta personnel. When the Junta personnel arrived in Monrovia, they were

<sup>978</sup> [REDACTED]; TF1-045, TT, 12 November 2008, pp. 20111-20 and 14 November 2008, pp. 20322-23.

<sup>979</sup> Accused, TT, 5 August 2009, p. 26051-53.

<sup>980</sup> TF1-406, TT, 9 January 2008, pp. 825-26, 828 and 10 January 2008, p. 889; Accused, TT, 5 August 2009, pp. 26051-53. The Accused's explanation for why he wanted custody of these individuals is incredible – it was not to save them from an unfair prosecution as, in the NPFL and after, Taylor routinely executed individuals with no more, and probably less, due process rights than these persons would receive in Sierra Leone.

arrested by ECOMOG forces and were thus unable to make their way to Taylor's headquarters and protection. After the intervention of ECOMOG at the Liberian airport, Taylor attempted to get the men and helicopter(s) turned over to him, trying unsuccessfully to personally intervene.<sup>981</sup> Taylor then made an announcement and told the ECOMOG forces to leave Liberia.<sup>982</sup> The arrested personnel were taken to Nigeria despite Taylor's protests. Contrary to Taylor's testimony, the Nigerians, not Taylor, later handed those arrested over to the government of Sierra Leone.<sup>983</sup> Victor King, one of the fleeing Junta personnel handed over to Nigeria, was amongst the 24 SLA officers executed by firing squad in October 1998.<sup>984</sup>

## II.I OTHER SUPPORT

### Sent Subordinates to Repair Captured Weapon

332. Before the May 1997 coup, Dennis Mingo aka Superman, Gibril Massaquoi and others captured a 40-barrel missile from the Guinean troops along the Kambia border. Taylor sent engineers from Liberia to repair the weapon.<sup>985</sup> Taylor was able to send his people to make these repairs because of the cooperation he had forged between himself and the leader of the ULIMO-K, Alhaji Kromah, as discussed at paragraphs 221-222.

### Guest House, Other Lodging

333. When Bockarie began to visit Taylor in Liberia in 1998, Taylor initially provided him with hotel accommodation.<sup>986</sup> Thereafter, perhaps as early as October 1998, Taylor provided the AFRC/RUF with a Guest House in Monrovia, close to Taylor's home, White Flower.<sup>987</sup> Providing this Guest House facilitated Taylor's criminal participation, involvement, and concerted action with the AFRC/RUF. Taylor provided Liberian

<sup>981</sup> TF1-406, TT, 9 January 2008, pp. 825-26, 828 and 10 January 2008, p 889; TF1-597, 21 May 2008, pp. 10489-90; Exh.P-132, p. 00100147. See also Exh. D-141, pp. 238-241; Accused, TT, 20 January 2010, pp. 33719-23.

<sup>982</sup> TF1-406, TT, 9 January 2008, p. 828; Accused, TT, 20 January 2010, pp. 33719-23.

<sup>983</sup> Accused, TT, 20 January 2010, pp. 33719-23.

<sup>984</sup> [REDACTED]. See also Accused, TT, 29 September 2009, pp. 29754-55: King executed in Sierra Leone.

<sup>985</sup> TF1-577, TT, 4 June 2008 pp. 10988-94.

<sup>986</sup> Accused, TT, 5 August 2009, pp. 26005-06.

<sup>987</sup> [REDACTED]; TF1-338, TT, 1 September 2008, pp. 15129-30; TF1-406, TT, 10 January 2008, p. 888; Accused, TT, 5 August 2009, pp. 26005-06, 26009-10, 26012-13; [REDACTED]; Accused, TT, 28 October 2009, p. 30518; [REDACTED]; TF1-338, TT, 2

September 2008, p. 15143; Accused, TT, 24 August 2009, pp. 27415-16: stating the Guest House was no more than 200 meters from the Nigeria Embassy, which was one half to three quarters of a mile away from White Flower; TF1-516, TT, 9 April 2008, pp. 7106-07.

personnel such as cooks and securities for the Guest House, as well as the food, vehicles, and other support.<sup>988</sup> The Guest House also served an important communication function, away from prying eyes that might wonder about Taylor's use of the communications centre at the Executive Mansion to contact the AFRC/RUF. The Accused ensured that the Guest House had long range radio equipment and telephone capability. RUF radio operators were based there to maintain the long distance communication capability between Taylor and the AFRC/RUF via telephone and radio, including Osman Tolo and Memuna aka Memunatu Deen, who had been in Monrovia working for one of Taylor's close associates, his Chief of Protocol, Musa Cisse. The communications capabilities Taylor provided at the Guest House also gave Bockarie another way to maintain contact with his subordinates in Sierra Leone while he was in Monrovia engaged in meetings with Taylor. RUF personnel were also assigned to the Guest House to coordinate and facilitate movement of diamonds to Taylor, and of arms, ammunition and other supplies to Bockarie and Sesay in Sierra Leone. The Guest House was also used by RUF and AFRC personnel during their frequent visits to Monrovia, where they met with Taylor or his designees, exchanged diamonds for arms, ammunition and other supplies and took instruction, direction and guidance from Taylor or his designees. In early 2001, Taylor closed the Guest House because of the pressure he was getting from the international community because of his support for the AFRC/RUF.<sup>989</sup> Thereafter, AFRC/RUF personnel coming to Monrovia for meetings with Taylor or his designees were lodged at hotels, in particular Hotel Boulevard, which later became Hotel Royal.<sup>990</sup>

334. When Bockarie fled to Taylor in Liberia in mid-December 1999, Taylor provided accommodation for him and his subordinates.<sup>991</sup>

<sup>988</sup> [REDACTED]; Accused, TT, 5 August 2009, pp. 26012-13.

<sup>989</sup> TF1-585, TT, 9 September 2008, pp. 15832-33; [REDACTED]; TF1-338, TT, 1 September 2008, pp. 15129-30, 2 September 2008, pp. 15150, 15164-65; TF1-274, TT, 2 December 2008, p. 21478; TF1-406, TT, 10 January 2008, p. 888; TF1-275, TT, 21 February 2008, p. 4474; [REDACTED]; see also Accused, TT, 5 August 2009, pp. 26005-06, 26009-10, 26012-13 and [REDACTED]; [REDACTED] 28 October 2009, p. 30518.

<sup>990</sup> [REDACTED]; TF1-338, TT, 2 September 2008, pp. 15164-65; DCT-172, TT, 29 July 2010, pp. 45080-81.

<sup>991</sup> [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13035-37.

## Money

335. Throughout the conflict, the Accused provided financial assistance to first the RUF, then the AFRC/RUF. Examples are far ranging: money to Sankoh and members of his external delegation in Ivory Coast;<sup>992</sup> funds to enable RUF commanders to travel to Ivory Coast to join Sankoh in late 1996, early 1997;<sup>993</sup> funds to RUF personnel stranded in Ivory Coast after Sankoh was detained in Nigeria;<sup>994</sup> funds to Bockarie to purchase arms and ammunition from former ULIMO in Lofa County and for other uses;<sup>995</sup> funds to Sankoh and the Lomé delegation;<sup>996</sup> and in 1999 after the signing of the Lomé Peace Agreement, US\$15,000 to Johnny Paul Koroma for his delegation.<sup>997</sup> Between 2000 and 2001, on several occasions, the Accused provided large amounts of cash to AFRC/RUF leader Issa Sesay.<sup>998</sup>
336. Taylor said that the money provided to the external delegation was to be used for, among other things, travel to Europe. These travels gave the external delegates the opportunity to advance diamond sales in Europe and to arrange for arms shipments on behalf of Taylor and the RUF. On one occasion when Taylor gave money to Bockarie, Yeaten first met Bockarie at Foya and escorted him to Monrovia. Bockarie was there several days during which time he had meetings with Taylor. Bockarie explained to his RUF personnel who had accompanied him on the trip that Taylor asked him, Bockarie, to wait and that Taylor promised to provide Bockarie with ammunition and “morale boosters,” i.e., money, to take back to Sierra Leone. They travelled by helicopter to Foya, with the ammunition and US\$10,000. At Foya, Bockarie explained to Issa Sesay, Morris Kallon and other officers who met him there, that Taylor had given him the ammunition and the \$10,000.<sup>999</sup>
337. Before the Freetown invasion, Taylor instructed Zigzag Marzah to take money to Bockarie.<sup>1000</sup> In Monrovia in August/September 1999, at a meeting attended by Taylor,

<sup>992</sup> DCT-306, TT, 19 April 2010, p. 39306 and 20 April 2010, p. 39467.

<sup>993</sup> TF1-045, TT, 12 November 2008, pp. 20111-20 and 14 November 2008, pp. 20322-23; see also [REDACTED]

<sup>994</sup> TF1-045, TT, 12 November 2008, pp. 20123-34.

<sup>995</sup> TF1-406, TT, 9 January 2008, pp. 849-50; TF1-274, TT, 2 December 2008, pp. 21526-27.

<sup>996</sup> [REDACTED]

<sup>997</sup> TF1-334, TT, 24 April 2008, pp. 8503-16; see also TF1-567, TT, 4 July 2008, p. 12978: this appears to be an additional \$15,000 Taylor gave to Koroma; TF1-597, TT, 22 April 2008, p. 10580.

<sup>998</sup> TF1-375, TT, 24 June 2008, pp. 12687-90: on one occasion in Monrovia Sesay was given 85,000 US dollars.

<sup>999</sup> TF1-571, TT, 9 May 2008, pp. 9461-66.

<sup>1000</sup> TF1-406, TT, 9 January 2008, p. 864.



Sankoh and Bockarie, Taylor gave Bockarie US\$15,000 for RUF commanders.<sup>1001</sup>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>1002</sup>

[REDACTED]

[REDACTED]

[REDACTED]<sup>1003</sup>

### Medicine/Medical treatment

338. After the Intervention, and in addition to the vital arms and ammunition that Taylor provided the AFRC/RUF, he also supplied them with medicines and medical support.<sup>1004</sup> For example, during the Fitti Fatta operation, wounded fighters were taken to Monrovia by helicopter.<sup>1005</sup> Taylor also provided medicines for the AFRC/RUF late 1998 multi-axis offensive.<sup>1006</sup> When Dennis Mingo aka Superman was injured in 2000, Taylor requested that he be taken by helicopter to Liberia for medical treatment.<sup>1007</sup>

### Other Support

339. Throughout the armed conflict in Sierra Leone, the Accused provided the RUF, Junta and the AFRC/RUF with rice and other food, military uniforms, fuel, vehicles, and “morale boosters” i.e. cigarettes, drugs, alcohol and other items. The Accused’s subordinates brought these supplies to Sierra Leone, or faction leaders or their subordinates collected them in Liberia. For example, after the Intervention, Taylor provided the AFRC/RUF with other essential support such as food items including rice, salt, maggi, fuel and with “morale boosters” such as alcohol and cigarettes.<sup>1008</sup>

<sup>1001</sup> TF1-338, TT, 1 September 2008, pp. 15116-18.

<sup>1002</sup>

<sup>1003</sup>

<sup>1004</sup> TF1-577, TT, 4 June 2008, pp. 11023-29.

<sup>1005</sup> TF1-360, TT, 6 February 2008, pp. 3181-82; TF1-406, TT, 10 January 2008, p. 899.

<sup>1006</sup> TF1-276, TT, 23 January 2008, pp. 2012-13.

<sup>1007</sup> TF1-360, TT, 6 February 2008, pp. 3181-82.

<sup>1008</sup> TF1-274, TT, 2 December 2008, pp. 21490-92 and TT, 3 December 2008, p. 21554; [REDACTED]; TF1-568, TT, 12 September 2008, pp. 16140; TF1-577, TT, 4 June 2008, pp. 11018-20, 11022; TF1-585, TT, 5 September 2008, pp. 15617-22 and TT, 8 September 2008, pp. 15652-57; TF1-567, TT, 2 July 2008, pp. 12906, 12912; TF1-274, TT, 2 December 2008, p. 21515.

340. In addition to critical materiel, Taylor sent equipment and supplies to sustain the AFRC/RUF late 1998 multi-axis offensive.<sup>1009</sup> During Sesay's reign, in addition to providing the AFRC/RUF with food, condiments and other supplies,<sup>1010</sup> Taylor also provided Sesay with mining equipment and petrol for the equipment.<sup>1011</sup>

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<sup>1009</sup> TF1-276, TT, 23 January 2008, pp. 1988-89, 2012-13; TF1-571, TT, 9 May 2008, pp. 9416-18, 9437-38; TF1-274, TT, 3 December 2008, p. 21554.

<sup>1010</sup> TF1-567, TT, 8 July 2008, pp. 13175-76; [REDACTED].

<sup>1011</sup> TF1-367, TT, 21 August 2008, pp. 14197-98; TF1-568, TT, 15 September 2008, pp. 16191-92; TF1-360, TT, 6 February 2008, pp. 3268-69.

### III. TAYLOR BENEFITS FROM HIS PARTICIPATION, INVOLVEMENT, CONCERTED ACTION WITH THE RUF, AFRC/RUF IN THE SIERRA LEONEAN CONFLICT

341. The Accused received a myriad of benefits from his multi-faceted participation, involvement, concerted action with these groups, including the ability to forcibly control the population and territory of Sierra Leone, to exploit, i.e., pillage, the resources of Sierra Leone, in particular the diamonds, to receive captured artillery, and access to manpower to fight with his Liberian forces in Liberia, Guinea and Ivory Coast.

#### III. A. TAYLOR & DIAMONDS: OBJECTIVE & CONTRIBUTION

##### *Introduction*

342. In an interview with the French newspaper, *Le Monde*, Charles Taylor stated:

“Yes, I think the war in Sierra Leone is a war for diamonds.”<sup>1012</sup>

343. Sierra Leone has long been known for the quality and quantity of its diamond resources. The RUF anthem set out in “Footpaths to Democracy” tries to justify the armed struggle in Sierra Leone as an attempt to account for the country’s diamond and mineral wealth. The anthem asks: “Where are our diamonds Mr. President? Where is our gold, NPRC... RUF is hungry to know where they are.”<sup>1013</sup> However, when the RUF gained control of the diamondiferous areas of Sierra Leone as part of the AFRC/RUF Junta, the nation’s diamond wealth was not used for the benefit of the people of Sierra Leone. Instead the vast majority of the country’s diamond wealth was taken to Charles Taylor in Liberia. Taylor’s receipt of diamonds during the Junta period whetted his appetite for pillaging Sierra Leone’s most precious commodity - its diamonds. With Taylor’s direction and support, the AFRC/RUF were able to capture the major diamond mining areas of Sierra Leone during the late 1998 multi-axis offensive. Shortly thereafter Taylor provided mining equipment to Sierra Leone’s diamond mines, with the result that from 1999 through to 2002 mining became increasingly productive. Charles Taylor was, of course, the chief beneficiary of his own investments; as during Issa Sesay’s tenure as Interim Leader of the RUF, Taylor received more diamonds than ever before.

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<sup>1012</sup> Exh. P-33B.

<sup>1013</sup> Exh. D-336, pp. 5-6.

344. From the very inception of the conflict, diamonds were looted from Sierra Leone and taken to Charles Taylor. During the initial months of the conflict, NPFL and RUF fighters who had crossed the border from Liberia into Sierra Leone engaged in a massive campaign of looting in Pujehun and Kailahun Districts<sup>1014</sup> – the first Districts in Sierra Leone to taste the promised “bitterness of war.” NPFL and RUF fighters looted diamonds from civilian victims in Pujehun and Kailahun Districts which were taken to NPFL territory in Liberia and to Charles Taylor.<sup>1015</sup> Foday Sankoh travelled from Sierra Leone to Gbarnga taking looted diamonds to Taylor. Taylor rewarded Sankoh with arms, ammunition and other supplies, which the latter took back to Sierra Leone.<sup>1016</sup> Foday Sankoh’s movements between Sierra Leone and Gbarnga to deliver diamonds to Taylor and receive arms, ammunition and other supplies were, even in these early stages of the conflict, co-ordinated and monitored by NPFL and RUF radio stations.<sup>1017</sup>

345.

1018

<sup>1014</sup> Pujehun and Kailahun were the first Districts hit by the invasion and looting was rife from the very beginning of the conflict. See for e.g. [REDACTED]

see further the Looting section of the Brief.

<sup>1015</sup> Exh. P-31, p. 8 notes that “from the first months of the Sierra Leonean war, there were reports that diamonds mined in Sierra Leone were being carried to NPFL territory in Liberia,” referring in footnote 33 for “E.g. Agence France Presse dispatch, 26 April 1991;” TF1-367, TT, 1 September 2008, pp. 15058-59.

<sup>1916</sup> TF1-367, TT, 1 September 2008, pp. 15058-59. The witness was one of Foday Sankoh's bodyguards at the beginning of the conflict. He testified that the escorting of diamonds to Charles Taylor began in the time of Foday Sankoh; and that he accompanied Sankoh from Sierra Leone to Gbarnga on a number of occasions and that Sankoh would take diamonds that had been taken from civilians to Taylor and that Sankoh would return to Sierra Leone with arms, ammunition and supplies; [REDACTED]

<sup>1017</sup> See Section II.F.

1018

346. During the initial years of the conflict, most of the diamonds taken to Charles Taylor were looted from either civilian victims or commercial targets. However, even during these early days the NPFL and RUF were able to supervise some limited organised mining; although the full force of this ambition would not be felt until some years later.<sup>1019</sup> [REDACTED]

[REDACTED]<sup>1020</sup>

[REDACTED]<sup>1021</sup>

347. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>1022</sup>

348. However, by mid 1992 the lull in supply of diamonds from the RUF to Taylor, and corresponding diminution in the supply of arms, ammunition and other materials from Taylor to the RUF were addressed. Charles Taylor directed Foday Sankoh to capture the diamond mining area of Kono District,<sup>1023</sup> and supplied the arms and ammunition needed for the mission.<sup>1024</sup> Sankoh appointed Sam Bockarie as the mission commander and explained to Sam Bockarie, Issa Sesay and Morris Kallon that the purpose of capturing Kono was to get more diamonds in order to obtain more arms and ammunition so that the RUF could continue the war.<sup>1025</sup> [REDACTED]

[REDACTED]<sup>1026</sup>

Diamonds were plundered from civilians, civilians' houses and from shops in Koidu Town and the surrounding area during this brief period of RUF control.<sup>1027</sup> Looted diamonds were

<sup>1019</sup> These early efforts at forced civilian mining in Sierra Leone under the supervision of the NPFL were, of course, replicated to devastating effect some several years later when the ambitions of Charles Taylor and the combined forces of the RUF and AFRC were realised during and after the Junta government period.

<sup>1020</sup> [REDACTED]

<sup>1021</sup> [REDACTED]

<sup>1022</sup> [REDACTED]

<sup>1023</sup> TF1-567, TT, 2 July 2008, pp. 12844-56; TF1-360, TT, 4 February 2008, pp. 3045-47, esp. 3046.

<sup>1024</sup> TF1-567, TT, 2 July 2008, pp. 12844-56; TF1-360, TT, 4 February 2008, pp. 3045-47, esp. 3046.

<sup>1025</sup> TF1-567, TT, 2 July 2008, pp. 12856-58.

<sup>1026</sup> [REDACTED]

<sup>1027</sup> TF1-567, TT, 2 July 2008, pp. 12861-67, esp. at p. 12863.

given to Sankoh<sup>1028</sup> and then taken to Taylor in Gbarnga.<sup>1029</sup> In return for these diamonds, Taylor again supplied the RUF with arms, ammunition and other supplies so that the RUF could continue its war effort.<sup>1030</sup> Indeed several witness testified about statements made by Foday Sankoh to his RUF in which Sankoh explained that he had taken the diamonds to Charles Taylor who supplied him with arms and ammunition in return.<sup>1031</sup>

The Junta Government period (May 1997) up until the Intervention (February 1998)

349. The Junta government period marked a significant turning point in terms of Charles Taylor's access to Sierra Leone's diamonds. The alliance between the AFRC and RUF granted the RUF and by extension Charles Taylor access to the diamond mining areas in Sierra Leone, namely Kono and Kenema Districts, including Tongo Fields.<sup>1032</sup> Soon after the AFRC/RUF alliance the Junta government concentrated their efforts on raising revenue through diamonds mined by the forced labour of countless civilians under the supervision of the AFRC/RUF.<sup>1033</sup> This trade included the exchange of diamonds with Charles Taylor in return for the provision of arms and ammunition. The most significant example of which was in relation to the "Magburaka shipment." During the Junta government period, Taylor also received diamonds that had been forcibly mined by civilians in Kenema District under the command of the RUF's Sam Bockarie. These diamonds were transported to Liberia by Charles Taylor's conduit, Daniel Tamba (aka "Jungle"). In return for these deliveries of diamonds, Taylor provided arms and ammunition, which the Junta utilised in its various attempts to hold power in the country in the face of continuing threats from ECOMOG and the Kamajors.

<sup>1028</sup> TF1-567, TT, 2 July 2008, pp. 12861-67, esp. at p. 12863. The witness referred to Bockarie giving Sankoh a parcel of some 15 bigger diamonds and some five sizeable diamonds on one occasion and "plenty" (p. 12862) of diamonds on another; see also TF1-577, TT, 4 June 2008, pp. 10913 -15.

<sup>1029</sup> TF1-567, TT, 2 July 2008, pp. 12861-67; TF1-360, TT, 4 February 2008, pp. 3045-47, who testifies about Sankoh taking diamonds to Taylor, and also Mohamed Tarawalli taking diamonds to Taylor, including a "*big jar containing diamonds and money*"; see also TF1-577, TT, 4 June 2008, pp. 10913 -15.

<sup>1030</sup> TF1-567, TT, 2 July 2008, pp. 12861-67; TF1-360, TT, 4 February 2008, pp. 3045-47.

<sup>1031</sup> TF1-360, TT, 4 February 2008, pp. 3045-46: the witness recalled that, after Sankoh returned to Kono (from Liberia) in late 1992/1993. Sankoh explained that "[t]he diamonds that I took along with me, these are the ammunitions in return for them from Mr. Taylor. Now we should start the fighting" (quotation at p. 3046); TF1-567, TT, 2 July 2008, pp. 12866-67.

<sup>1032</sup> The AFRC and RUF did not gain full access to Tongo immediately when the Junta took power but conducted a joint operation to drive the Kamajors out of Tongo around August 1997.

<sup>1033</sup> As regards the Junta Government's focus on diamonds as a means of sustaining itself see: [REDACTED]

[REDACTED], and Exh. P-131, esp. at pp. 4-5.

*Diamond Mining in Kono District*

350. During the Junta Government period the AFRC/ RUF engaged in diamond mining in locations across Kono District.<sup>1034</sup> The AFRC/RUF relied upon the forced labour of many civilians in order to conduct its mining activities.<sup>1035</sup> [REDACTED]

[REDACTED]<sup>1036</sup> The AFRC Secretariat located in Koidu Town had responsibility for the diamond mining conducted in the District. Alex Tamba Brima (PLO 2) and Cobra oversaw the mining operations in Kono.<sup>1037</sup> However, RUF commanders were also involved in diamond mining in Kono District in a supervisory capacity. The representative in charge for the RUF on mining matters in Kono was Captain Moriba.<sup>1038</sup> Superman was assigned to the Tombodu area and Morris Kallon and Issa Sesay also had representatives who supervised the mining in Kono District.<sup>1039</sup> Diamonds mined in Kono District during the Junta Government period were delivered to designated AFRC and RUF commanders, then transported to Freetown and deposited with Johnny Paul Koroma,<sup>1040</sup> and Sam Bockarie.<sup>1041</sup> Diamonds ultimately reached Charles Taylor in Liberia.<sup>1042</sup>

*Diamond Mining in Kenema District particularly Tongo Fields*

351. Under the auspices of Sam Bockarie, the AFRC/RUF exercised its authority in Kenema District, and soon exerted the same control over the diamond mining area of Tongo Fields. The AFRC/RUF organised a system of mining using the forced labour of the civilian population in the area.<sup>1043</sup> Diamonds were mined by civilians and delivered to AFRC/RUF commanders. Sam Bockarie was the senior RUF commander supervising diamond mining in Tongo Fields,<sup>1044</sup> although he was based in Kenema Town through much of the Junta period. Bockarie's subordinate RUF officers, including Karmoh

<sup>1034</sup> See the Section IX.H.; TF1-516, TT, 9 April 2008, p. 7115-23.

<sup>1035</sup> See the Section on Enslavement/ Forced Labour.

<sup>1036</sup> [REDACTED]

<sup>1037</sup> [REDACTED]; TF1-334, TT, 17 April 2008, pp. 7912-16 and 18 April 2008, pp. 8029-30; see also TF1-532, TT, 11 March 2008, pp. 5719-20.

<sup>1038</sup> TF1-516, TT, 10 April 2008, p. 7146-47.

<sup>1039</sup> TF1-334, TT, 18 April 2008, pp. 8029-30.

<sup>1040</sup> [REDACTED]; TF1-532, TT, 11 March 2008, pp. 5719-21.

<sup>1041</sup> TF1-516, TT, 10 April 2008, pp. 7156-57.

<sup>1042</sup> For example, TF1-532, TT, 11 March 2008, pp. 5719-21 but see further the paragraphs below.

<sup>1043</sup> See Section IX.H.

<sup>1044</sup> TF1-571, TT, 8 May 2008, esp. at p. 9376 but see also pp. 9378-85; TF1-567, TT, 2 July 2008, pp. 12884-85.

Kanneh (aka “Captain Eagle”)<sup>1045</sup> and Amuyephe delivered diamonds mined in Tongo Fields to Bockarie in Kenema.<sup>1046</sup> These diamonds were then transported from Sam Bockarie to Charles Taylor.<sup>1047</sup> As regards the AFRC component of the partnership, the senior AFRC commanders in Tongo Fields included Captain Yamao Kati and Sergeant Junior who was based at the Secretariat. Yamao Kati thereafter delivered the diamonds to Eddie Kanneh (the “Resident Minister for the East”) at the Secretariat in Kenema, and from Eddie Kanneh the diamonds were transported to Johnny Paul Koroma in Freetown.<sup>1048</sup> Taylor subsequently received diamonds from Johnny Paul Koroma.<sup>1049</sup>

*Charles Taylor and the AFRC/RUF Junta’s diamond mining operations*

352. Charles Taylor was the guiding hand behind the AFRC/RUF Junta and its diamond mining operations. Close links immediately developed between Charles Taylor’s Government in Monrovia and Johnny Paul Koroma’s Junta Government in Freetown.<sup>1050</sup> This link, coupled with the wealth of evidence demonstrating Taylor’s receipt of diamonds from both Johnny Paul Koroma and Sam Bockarie, clearly demonstrates that Taylor’s intention was to profit from Sierra Leone’s diamond wealth. Notably, the union of the AFRC and RUF enabled the RUF to get a firm foothold in the area of Tongo Fields for the first time. The AFRC/RUF deliberately targeted the area of Tongo/Tongo Fields in Kenema District because it was a diamond mining area.<sup>1051</sup> Charles Taylor was right behind this move. In this regard, TF1-571 (Karmoh Kanneh) (one of the commanders in the successful mission to capture Tongo Fields) was present in a communications room in Kenema, with Sam Bockarie and Jungle when Bockarie communicated over the satellite phone with Charles Taylor, informing Taylor that “we

<sup>1045</sup> TF1-045, TT, 12 November 2008, p. 20141; testifies Karmoh Kanneh’s RUF name was Captain Eagle.

<sup>1046</sup> TF1-045, TT, 12 November 2008, pp. 20148-49; TF1-571, TT, 8 May 2008, pp. 9376 (mentioning Mompleh *infra*), 9378 and esp. 9379-85; TF1-567, TT, 2 July 2008, pp. 12884-86 (the witness refers to “Mohamed Kanneh” rather than Karmoh Kanneh; however, it is reasonable to infer the witness is referring to Karmoh Kanneh; as he describes him as one of Bockarie’s securities who took diamonds to Sam Bockarie); DCT-102, TT, 1 November 2010, pp. 48435-36. Note also that the witnesses refer to a civilian chairman (Mompleh) who was appointed by Sam Bockarie but whom absconded with diamonds and was not replaced.

<sup>1047</sup> TF1-532, TT, 31 March 2008, pp. 6193-94. See the section below titled “Diamonds delivered to Charles Taylor from Sam Bockarie via Daniel Tamba (aka “Jungle”).

<sup>1048</sup> TF1-045, TT, 12 November 2008, pp. 20139-41, 20146-47 & 20149; see generally TF1-571, TT, 8 May 2008, pp. 9378-79.

<sup>1049</sup> See the section below titled “Johnny Paul Koroma, the Supreme Council and the delivery of diamonds to Charles Taylor.”

<sup>1050</sup> See Section II.

<sup>1051</sup> TF1-567, TT, 2 July 2008, p. 12884; note also TF1-571, TT, 8 May 2008, pp. 9367-71.



have captured the mining area, which is Tongo Field” and he heard that Charles Taylor thanked Sam Bockarie.<sup>1052</sup>

*Johnny Paul Koroma, the Supreme Council and the delivery of diamonds to Charles Taylor*

353. The Supreme Council of the Junta Government, overseen by Johnny Paul Koroma, concentrated their efforts on raising revenue through the diamond mines, principally in Kono District.<sup>1053</sup> Charles Taylor was at the heart of these efforts – as he directed the Junta Government’s energies towards Kono District,<sup>1054</sup> and subsequently reaped the rewards. Diamonds mined in Kono District were taken to Freetown, sometimes displayed at Supreme Council meetings, and from Freetown diamonds were transported to Taylor under Johnny Paul Koroma’s watch.<sup>1055</sup> The most significant delivery of diamonds from Johnny Paul Koroma and the Supreme Council to Charles Taylor was in relation to the “Magburaka shipment.”<sup>1056</sup>

354. The “Magburaka Shipment” is discussed in detail in Section II. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>1057</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>1058</sup> Taylor took these diamonds with him on the multi-state trip during which he organised the massive

<sup>1052</sup> TF1-571, TT, 8 May 2008, pp. 9370-71.

<sup>1053</sup> As regards the Junta Government’s focus on diamonds as a means of sustaining itself see: [REDACTED], and Exh. P-131 esp. at pp. 4-5; TF1-532, TT, 11 March 2008, p. 5719.

<sup>1054</sup> See II B.

<sup>1055</sup> TF1-532, TT, 11 March 2008, pp. 5719-21. The witness explained that Johnny Paul Koroma (“the Pa”) would deliver diamonds to Charles Taylor (“the big Pa”). The witness also described Johnny Paul Koroma displaying the diamonds at Supreme Council Meetings, which were kept in small jars.

<sup>1056</sup> There were, however, additional shipments of arms and ammunition to the Junta that were paid for with diamonds. See for example, [REDACTED]

<sup>1057</sup> [REDACTED]

<sup>1058</sup> [REDACTED]. See also TF1-597, TT, 21 May 2008, pp. 10455-59.

shipment of arms and ammunition.<sup>1059</sup> It was during this multi-state trip that Taylor visited South Africa and gave diamonds to the model, Naomi Campbell.<sup>1060</sup>

*Diamonds delivered to Charles Taylor by Sam Bockarie via Daniel Tamba (aka "Jungle")*

355. During the Junta government period, diamonds mined under AFRC/RUF supervision in Kono and Kenema Districts were also transferred from Sam Bockarie to Charles Taylor via his trusted subordinate Daniel Tamba (aka "Jungle"). Numerous witnesses, including TF1-045 (Augustine Sama Mallah),<sup>1061</sup> TF1-571 (Karmoh Kanneh),<sup>1062</sup> TF1-375,<sup>1063</sup> and TF1-567,<sup>1064</sup> gave evidence that during the Junta government period Jungle acted as a liaison between Sam Bockarie and Charles Taylor - taking diamonds from Bockarie to Taylor, who in return gave Jungle arms and ammunition to take to Bockarie in Sierra Leone.

356. A particularly striking example of Jungle's use as a conduit to deliver diamonds from Sam Bockarie to Charles Taylor was provided by TF1-571 (Karmoh Kanneh). The witness testified that he delivered diamonds mined by civilians during "government mining" in Tongo Fields to Sam Bockarie. Bockarie then assembled the witness, Jungle, "JR" ("Junior Vandii") and "Lion" at the two-storied building in Tongo,<sup>1065</sup> where they counted and parcelled 43 pieces of diamonds. The witness was present when Bockarie called Charles Taylor on the satellite phone and informed him that their work was done and that he would give the diamonds to Jungle who would travel with the diamonds to Taylor. Jungle also spoke to Taylor over the satellite phone and confirmed the quantity of diamonds in their possession. The witness heard Taylor explain to Jungle that he should move with the diamonds to Foya, Liberia, where he would be picked up by helicopter to be taken to Monrovia. Pursuant to Taylor's

<sup>1059</sup> See Section II.

<sup>1060</sup> See Section II.

<sup>1061</sup> TF1-045, TT, 12 November 2008, pp. 20148-49; Mallah testified about an occasion around June/July 1997 (see p. 20139) when he travelled from Tongo with "Eagle" to visit Sam Bockarie. He testified that he met Sam Bockarie and "Colonel Jungle" as well as "Eagle" and some other officers at the "NIC" in Kenema, and that Sam Bockarie said to him, "Have you seen this man who has come here? It is Charles Taylor who sent him for us to give him some parcels of diamonds." The witness explained that from the NIC in Kenema, "Mosquito," "Colonel Jungle" and "Eagle" boarded a vehicle and went towards Tongo.

<sup>1062</sup> TF1-571, TT, 8 May 2008, p. 9371; Jungle was introduced to the witness as "the Pa's representative" (the Pa being Charles Taylor – see the reference to "Pa Taylor" on the previous p. 9370). See also TT, 8 May 2008, pp. 9380-84 addressed in the para. below.

<sup>1063</sup> TF1-375, TT, 23 June 2008, pp. 12489-92.

<sup>1064</sup> TF1-567, TT, 2 July 2008, p. 12889; the witness testified about an occasion towards the end of 1997 (p. 12890) when he went to Kenema and met "Jungle" who told him that "*the Pa had sent him; that is Charles Taylor.*"

<sup>1065</sup> TF1-571, TT, 8 May 2008, pp. 9380-84.

instruction Jungle left Tongo Fields for Foya. The witness further testified about a second occasion in the same month when 18 pieces of diamonds were brought to Bockarie, including a particularly large diamond. The witness explained that the same procedure was followed on this occasion: the diamonds were counted and parcelled; Bockarie called Charles Taylor over the satellite phone and Jungle confirmed to Taylor the total quantity of diamonds. As before, Jungle was escorted to the Sierra Leone/Liberian border.<sup>1066</sup> TF1-571 (Karmoh Kanneh's) testimony about diamonds mined in Tongo Fields being delivered to Taylor is corroborated by other witnesses in the case,<sup>1067</sup> including the crime base witness, TF1-060 (Abdul Otongo Conteh). The latter testified that in a conversation with Captain Eagle<sup>1068</sup> during the AFRC/RUF occupation of Tongo Fields in 1997/1998, Captain Eagle told him that the diamonds the AFRC/RUF obtained from Tongo Fields were sent to Charles Taylor in Liberia and that in return the AFRC/RUF received arms and ammunition from President Taylor.<sup>1069</sup>

357. Further corroboration of Jungle's role as a liaison between Sam Bockarie and Charles Taylor is provided by TF1-375. The witness met Jungle in 1997 when he was instructed to transfer supplies of arms and ammunition that Jungle had transported from Liberia to Kenema from Jungle's vehicle to other vehicles for onwards delivery to Buedu and Freetown. The witness explained:

A. Jungle was in the SSS in Liberia. He was a member of SSS in Liberia. He was a bodyguard to President Taylor, close protection unit.

Q. Was this the first time you had met him?

A. That was my first time to meet him...

A. I knew him later he became my personal friend, a best friend of mine...He was with me until his death.

Q. Do you know where Jungle had got the ammunition which you then transferred to Sam Bockarie in Kenema?

A. The first time I met him we did not discuss that much, but when I got to know him later he explained to me how he used to get the ammunition that he crossed with from Liberia. He told me that he used to take the ammunition from – sometimes the President used to send him to get the ammunition from White Flower, the Executive Mansion, to take it to Sam Bockarie and that was not his first time to cross over with ammunition...

Q. Did Jungle tell you whether he took anything back to Liberia?

<sup>1066</sup> *Ibid.* As to the time frame, see p. 9387.

<sup>1067</sup> TF1-045, TT, 12 November 2008, pp. 20148-49.

<sup>1068</sup> Karmoh Kanneh's RUF name was Captain Eagle (TF1-045, TT, 12 November 2008, p. 20141).

<sup>1069</sup> TF1-060, TT, 29 September 2008, pp. 17545-49.

A. Yes, when I got to know him better later we were very close. Like he used to explain to me. He used to say that he was the person that was serving as liaison between Sam Bockarie and President Taylor. He used to take diamonds to President Taylor and he will in turn give him ammunition to take it to Sierra Leone. Jungle told me that personally.<sup>1070</sup>

The Intervention (February 1998) to Lomé (July 1999)

358. This period can broadly be categorized as one in which the AFRC/RUF, on the verge of near total defeat, was able to regroup and within a year almost re-take the country. This revitalization was in large measure achieved through the capture of the Kono District. In terms of Charles Taylor, this period can be viewed as one of “investment” in that he made repeated efforts on all levels to concentrate the AFRC/RUF’s attention and energy to re-capturing Kono’s diamond mines. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED].<sup>1071</sup> Most significant was the 1998 shipment of arms and ammunitions transported through Roberts International Airport, from Burkina Faso. This shipment was ultimately employed during the late 1998 multi-axis offensive,<sup>1072</sup> which resulted in the eventual capture of the entirety of the Kono District including the lucrative Koidu Town and its mines. This was a windfall for Taylor, as from that point onward the AFRC/RUF had unchallenged territorial control of the district until the end of the conflict. Mining intensified, the diamond traffic increased and Taylor was handsomely rewarded for his direction and support during this period.

*Charles Taylor’s focus on the diamond mining areas of Sierra Leone*

359. Taylor’s response to the AFRC/RUF being ousted from Freetown and Koidu Town during the intervention was to direct the AFRC/RUF to concentrate their efforts on taking hold of Kono because it was a diamond mining area. Charles Taylor and Johnny Paul Koroma spoke several times via satellite phone as the AFRC/RUF forces were

<sup>1070</sup> TF1-375, TT, 23 June 2008, pp. 12489 -92, quotation at pp. 12490-92.

<sup>1071</sup> [REDACTED]

<sup>1072</sup> See Section II.D and see the para below TF1-577, TT, 5 June 2008, pp. 11072-75. [REDACTED]

escaping from Freetown in February 1998.<sup>1073</sup> During one of those conversations Taylor directed Johnny Paul Koroma to go and capture Kono.<sup>1074</sup> Then again after the initially unsuccessful attempt to take Kono, Taylor repeated the instruction (to try and capture Kono) to Johnny Paul Koroma reassuring Johnny Paul Koroma that he would send a helicopter from Monrovia to pick them up.<sup>1075</sup> Subsequently, at a meeting convened by Sam Bockarie at a secret location between Buedu and Dawa, both Jungle and General Ibrahim passed on instructions from Charles Taylor that the AFRC/RUF should not worry about being pushed out of Freetown but that they should try to get hold over Kono since it was where they would get their resources – diamonds.<sup>1076</sup> Throughout 1998 Taylor continued to impress upon Bockarie the importance of the AFRC/RUF regaining control over Koidu Town and Kono District. When the AFRC/RUF were pushed out of Koidu and instructions were carried out to burn down Koidu, a group of Liberians who had been received at Superman Ground made representations to the AFRC/RUF that the AFRC/RUF should aim to re-take Koidu as soon as possible in order that diamond mining operations should be conducted.<sup>1077</sup> [REDACTED]

[REDACTED] Towards the end of 1998, prior to the multi-axis offensive, Bockarie returned to Buedu with a lot of arms and ammunition and guns which he had received from Taylor in order to capture Kono and other mining areas. Bockarie told them that Charles Taylor had explained that they should try and capture these areas in order to

<sup>1073</sup> TF1-597, TT, 21 May 2008, pp. 10494-12.

<sup>1074</sup> TF1-597, TT, 21 May 2008, p. 10494.

<sup>1075</sup> TF1-597, TT, 21 May 2008, pp. 10494-12.

<sup>1076</sup> TF1-577, TT, 5 June 2008, pp. 11056 and 11059-61: Saidu gave evidence that General Ibrahim explained that they had come directly from Charles Taylor, as part of Charles Taylor's government. The meeting occurred after the intervention. Present were: Daniel Tamba aka Jungle, General Ibrahim, Dennis Mingo, Augustine Gbao, Rashid Sandy aka Hi-Rash and most RUF senior officers.

<sup>1077</sup> TF1-375, TT, 23 June 2008, pp. 12521-31: the witness testified about an open forum attended by many senior AFRC/RUF officers as well as a smaller meeting attended by Superman at which the Liberians had emphasized that they needed to re-take Kono and to get mining equipment to Kono in order to proceed more quickly with the war. It is of note that the witness testified that amongst the Liberians was Osebo Demy (59<sup>th</sup> in the SSS and one of Benjamin Yeaten's Deputies) see p. 12527.

<sup>1078</sup> [REDACTED]

obtain more diamond resources.<sup>1079</sup> This message was relayed to AFRC/RUF fighters by Issa Sesay at Superman Ground. Issa Sesay proclaimed that if they failed to capture the diamond mining areas then Charles Taylor would no longer supply them with arms and ammunition.<sup>1080</sup>

*Charles Taylor's provision of mining experts and equipment to Kono's diamond mines*

360. During the first half of 1999 Taylor's focus on Kono and the AFRC/RUF's ability to conduct mining operations remained steadfast. Having consolidated control over the diamond mining areas in Kono during the multi-axis offensive, Taylor began to directly assist the AFRC/RUF with mining operations in a bid to make them more efficient. Taylor sent mining experts to Sierra Leone to ascertain what equipment was required.<sup>1081</sup> TF1-360 (King Perry Kamara) testified that the:

RUF heard a message from Sam Bockarie saying that Charles Taylor was going to send white people to come and inspect Kono and the airfield so that they could support the mining and we could do effective mining. Supporting, they said they would send machines like Caterpillar and any other machine that we would use for the mining. And it got to a point when two white men came from Buedu. They were escorted by RUF security forces. They just came and took snapshots at the mining field and took snapshots of the old mining machines. According to them, according to the message we received, Charles Taylor had sent them from Liberia. They just came and took snapshots and wrote all the things that we would need, machines, for the mining and they returned the following day.<sup>1082</sup>

361. Following these assessments, mining equipment, including caterpillars and bulldozers were sent to the mining areas of Sierra Leone,<sup>1083</sup> with the result that from 1999 AFRC/RUF mining operations became more efficient.<sup>1084</sup> The corollary of the AFRC/RUF diamond mining becoming more efficient was, of course, that Taylor received more of Sierra Leone's diamonds.

<sup>1079</sup> TF1-567, TT, 2 July 2008, pp. 12912-14. The witness testified that the arms, ammunition and guns were subsequently transported to Superman Ground and that upon Sam Bockarie's orders civilians captured from the villages surrounding Buedu were required to carry the arms and ammunition to Superman Ground. Further the witness explained that these arms and ammunition were utilized in the late 1998 multi-faceted offensive. See Section II.D.

<sup>1080</sup> TF1-567, TT, 2 July 2008, pp. 12912-14.

<sup>1081</sup> TF1-360, TT, 6 February 2008, pp. 3262-64.

<sup>1082</sup> *Ibid.*, quotation at pp. 3263-64.

<sup>1083</sup> TF1-367, TT, 21 August 2008, pp. 14196-97; TF1-388, TT, 14 July 2008, pp. 13567-68. The witness gave evidence about a delivery of a machine in a truck described by Akim Turay as a "mining plant" being transported from Charles Taylor in Monrovia to Kono in Sierra Leone in December 1999. See further the evidence about the use of caterpillars, bulldozers and other machinery during Issa Sesay's leadership of the RUF (below).

<sup>1084</sup> TF1-360, TT, 6 February 2008, pp. 3262-64.

*Diamond mining in Kono District*

362. Prior to December 1998 AFRC/RUF diamond mining operations occurred primarily in mining areas outside of the Koidu towns, such as the No. 11 mine near Tombodu and mining within the vicinity of the AFRC/RUF camps outside of Koidu Town.<sup>1085</sup> Following the multi-axis offensive in 1998 diamond mining operations became more extensive as a result of the AFRC/RUF's consolidation of control of the district and Koidu Town.<sup>1086</sup> As regards organization, after the intervention Bockarie placed Superman in charge of Kono and diamonds would be taken from Kono to Sam Bockarie in Kailahun.<sup>1087</sup> Later Bockarie instructed Issa Sesay to organise the mining operations in Kono District.<sup>1088</sup> Diamonds would be delivered by site commanders to the RUF office in Kono, where the diamonds were evaluated and recorded and then taken to Issa Sesay's residence.<sup>1089</sup> During this period daily records of diamonds mined by the AFRC/RUF were produced from various mining sites in Kono District.<sup>1090</sup> As explained above, Taylor provided the AFRC/RUF with varied assistance in relation to their mining activities with the result that from 1999 AFRC/RUF mining operations became more efficient.<sup>1091</sup>

*Diamonds delivered to Charles Taylor by Sam Bockarie*

363. During 1998 and 1999 Sam Bockarie frequently delivered diamonds from Sierra Leone to Charles Taylor in Monrovia. Numerous witnesses gave evidence about trips made by Bockarie to deliver diamonds to Taylor during 1998, including [REDACTED]<sup>1092</sup> TF1-406,<sup>1093</sup> TF1-579,<sup>1094</sup> TF1-585,<sup>1095</sup> TF1-360<sup>1096</sup> and TF1-577.<sup>1097</sup> Many witnesses

<sup>1085</sup> TF1- 338, TT, 3 September 2008, pp. 15311-18.

<sup>1086</sup> See TF1-516, TT, 10 April 2008, pp. 7161-63.

<sup>1087</sup> TF1-334, TT, 18 April 2008, pp. 8033-35.

<sup>1088</sup> TF1-360, TT, 6 February 2008, p. 3263; TF1-367, TT, 28 August 2008, pp. 14906-08.

<sup>1089</sup> TF1-367, TT, 28 August 2008, pp. 14903-07.

<sup>1090</sup> See TF1-567, TT, 2 July 2008, p. 12888 (referring to record keeping not only in Kono but also in Tongo) and Exh. P-150 shows daily records of diamonds produced by the AFRC/RUF from various mining sites in Kono District covering the period October 1998 – July 1998. The records state the date of production, name of the persons/miners from whom the diamonds are received, the number of pieces received, in some cases the carat, colour and percentage.

<sup>1091</sup> TF1-360, TT, 6 February 2008, pp. 3262-64.

<sup>1092</sup> [REDACTED]

<sup>1093</sup> TF1-406, TT, 9 January 2008, pp. 828-51 esp. p. 845 (in relation to the diamonds): Notably when TF1-406 (Varmuyan Sherif) accompanied Sam Bockarie on his first trip to Monrovia to see Charles Taylor, Sam Bockarie carried a mayonnaise bottle of diamonds with him (this trip occurred shortly after the Kailahun massacre). See also TF1-406, TT, 14 January 2008, pp. 1200-01.

<sup>1094</sup> TF1-579, TT, 5 November 2008, pp. 19859-63: the witness relates his conversations with Sam Bockarie during which Bockarie explained to the witness that he took diamonds mined in Kono to Charles Taylor and received arms and ammunition in return.

testified that Sam Bockarie's trips to Monrovia to deliver diamonds to Taylor continued during 1999, including: TF1-516,<sup>1098</sup> TF1-585<sup>1099</sup> and [REDACTED].<sup>1100</sup> Further support for the same is provided in the documentary evidence.<sup>1101</sup> Throughout this period, Sam Bockarie made frequent trips to Taylor in Monrovia and as one witness put it, every time Sam Bockarie made a trip to Monrovia he would make sure that he was carrying diamonds with him.<sup>1102</sup> Sam Bockarie's movements between Sierra Leone and Liberia were co-ordinated and monitored via RUF radio stations and radio stations under Charles Taylor's command.<sup>1103</sup> Diamonds taken by Bockarie to Taylor were chiefly those obtained through the AFRC/RUF mining operations conducted in Kono District delivered to Sam Bockarie from Kono's mines,<sup>1104</sup> although other additional diamonds, such as those looted during the robbery of Koidu Town bank were also given to Sam Bockarie and taken by him to Charles Taylor.<sup>1105</sup>

364. Witnesses gave evidence about the numerous statements made by Sam Bockarie to his subordinates regarding the exchange of diamonds with Charles Taylor and the return of

<sup>1095</sup> TF1-585, TT, 8 September 2008, pp. 15682-84.

<sup>1096</sup> TF1-360, TT, 5 February 2008, pp. 3159-63 (see para. below).

<sup>1097</sup> TF1-577, TT, 5 June 2008, pp. 11072-75 (see para. below).

<sup>1098</sup> TF1-516, TT, 10 April 2008, pp. 7166-68. The witness testified that the RUF Mining Commander, Captain Kennedy reported to Sam Bockarie about diamonds retrieved from mining operations in Kono, Sam Bockarie ordered Captain Kennedy to report to him in Buedu with the diamonds and Sam Bockarie would then travel to Charles Taylor in Monrovia with those diamonds. The witness recalled a particular occasion in 1999, when Sam Bockarie travelled to Charles Taylor in Monrovia, together with Captain Kennedy and Eddie Kanneh, to take the diamonds mined in Kono directly to "his chief, Charles Taylor" (quotation at p. 7167); TF1-367, TT, 15 September 2008, p. 15023; the witness confirms that he did accompany Sam Bockarie to Monrovia.

<sup>1099</sup> TF1-585, TT, 8 September 2008, pp. 15682-84.

<sup>1100</sup> [REDACTED]

<sup>1101</sup> Exh. P-63 and Exh. D-8.

<sup>1102</sup> [REDACTED]

[REDACTED]; TF1-360, TT, 5 February 2008, pp. 3148-49: the witness (King Perry Kamara) testified at p. 3148, that "*Sam Bockarie would receive these diamonds, when it would be much he will send a message that he was going to Liberia to Mr Taylor for ammunition and when he would return he would inform us that he had come back with ammunition from Mr Taylor*" and at pp. 3160-62 (see below); TF1-399, TT, 12 March 2008, pp. 5877-78, and Exh. P-92 (diagram by TF1-399) and TT, 12 March 2008, pp. 5883-86; TF1-585, TT, 8 September 2008, pp. 15682-84.

<sup>1103</sup> TF1-360, TT, 5 February 2008, pp. 3146, 3159. See further the Radio Communications Section of the Brief.

<sup>1104</sup> TF1-579, TT, 5 November 2008, pp. 19859-63, esp. at p. 19863.

<sup>1105</sup> TF1-360, TT, 5 February 2008, pp. 3105-07: Bockarie ordered Superman to destroy the commercial bank in Koindu Town in order to obtain money needed to effect an arrangement for an arms and ammunition shipment with Taylor. Pursuant to Bockarie's order, the commercial bank in Koindu Town was destroyed and US dollars, UK pounds, Sierra Leone Leones, as well as a cup of diamonds were seized by the RUF from the commercial bank during this operation. Bockarie subsequently took the proceeds of the robbery to Taylor in exchange for arms, ammunition and other supplies.



arms, ammunition and other materials.<sup>1106</sup> For example, TF1-360 (King Perry Kamara) testified that, after Bockarie returned from a trip to see Taylor in Liberia, Bockarie called a meeting at his (Bockarie's) house in Buedu, which was attended by various high ranking RUF commanders. Bockarie explained to the commanders that he had something to show them, and he took the commanders to a room in his house where the witness and the other commanders saw a pile of arms (AK-47, GPMG, RPG and LMG) and boxes of ammunition. Bockarie then showed them a second room in which they observed a commercial FM radio and a satellite phone. Bockarie explained to the RUF commanders that: *"all the diamonds that we have been sending from Kono and the monies, he said these are the things in return for them that Mr Taylor has given. He said more things were coming after."*<sup>1107</sup>

365. Another example is provided by TF1-577 (Albert Saidu) who gave evidence about a meeting at Sam Bockarie's house in Buedu, prior to the late 1998 offensive. He explained that:

He [Sam Bockarie] said, "I am trying to go to Charles Taylor." Then he took this paper, diamonds were in it and he said stones were in it, he called it stones. He said, "I am taking these stones to the Father," because we called Charles Taylor the Father. That was how we used to call him by code, the Father. He said, "These are the stones I am taking to the Father for me to go and get some materials quickly for us to launch a big offensive on those men and to take back Kono. He said "Just hold tight" and he said "I am coming. When I come we will go, we will launch an offensive."<sup>1108</sup>

366. By way of a final example, TF1-375 recounted a telephone conversation he had with Sam Bockarie after Bockarie left Liberia and was in the Ivory Coast in 2002:

Q. Now, you have indicated that on a couple of occasions Sam Bockarie told you that he was suffering and nobody cared about him. Did he explain what he meant by that?

A. Yes, he even made mention about diamonds. He said the amount of diamonds that he crossed with - he said he was told to turn the diamonds over to President

<sup>1106</sup> In addition to the examples given above, also of note is: TF1-532, TT, 11 March 2008, pp. 5789 -95, esp. p. 5794. The witness testified that in November 1998 (at Sam Bockarie's house in Buedu) Sam Bockarie briefed him about his trip to Liberia and Burkina Faso. Sam Bockarie showed him a large quantity of ammunition which he said had been given to him by Charles Taylor and that during this trip he left diamonds with Charles Taylor; see also TF1-367, TT, 20 August 2008, pp. 14230-31: the witness relates Sam Bockarie's discussion with him about diamonds, including taking them to Taylor.

<sup>1107</sup> TF1-360, TT, 5 February 2008, pp. 3159-63, esp. 3160 for the quotation. Further, at p. 3161, the witness testified that present at the meeting were: Sam Bockarie, Superman, Isaac Mongor, Mike Lamin, SYB Rogers and most of the battalion and brigade commanders. (According to the witness this meeting occurred prior to the Fitti Fatta Mission.)

<sup>1108</sup> TF1-577, TT, 5 June 2008, pp. 11072-75, quotation at p. 11702.

Taylor, by President Taylor himself, and that President Taylor will support him, and later he did not see the support.<sup>1109</sup>

367. A particularly notable instance of diamonds being delivered to Charles Taylor under the authority of Sam Bockarie was after the arrest of Johnny Paul Koroma.<sup>1110</sup> Following the arrest of the later, Sam Bockarie confiscated<sup>1111</sup> diamonds from Johnny Paul Koroma, Alex Tamba Brima and Sam Koroma. The diamonds confiscated from Koroma included nine plastics of diamonds containing according to one document 1,832 pieces of diamonds.<sup>1112</sup> [REDACTED] <sup>1113</sup> [REDACTED]

[REDACTED] <sup>1114</sup> On this occasion, Bockarie was unable to deliver these diamonds to Charles Taylor himself owing to Taylor's concern to keep his links to the RUF secret.<sup>1115</sup> Instead these diamonds were delivered to Taylor by his trusted subordinates (Ibrahim Bah, Benjamin Yeaten and Musa Cisse).<sup>1116</sup> [REDACTED]

[REDACTED] <sup>1117</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] <sup>1118</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>1109</sup> TF1-375, TT, 24 June 2008, p. 12649.

<sup>1110</sup> For this incident see the evidence of: [REDACTED]

[REDACTED] Exh. P-63, p. 3 and [REDACTED]; also Exh. D-8, esp. at pp. 3, 5-6 (referring to the 9 plastics of 1,832 diamonds) Mosquito said he needs some of the gem stones to give to the leader in Monrovia to facilitate these contacts; Exh. P-67, p. 00009675.

<sup>1110</sup> As regards these security reasons see [REDACTED] and Exh. D-8, pp. 3-4 and 6.

<sup>1111</sup> Specifically the diamonds were confiscated by Sesay and were handed over to Bockarie.

<sup>1112</sup> See Exh.D-8. See also [REDACTED].

<sup>1113</sup> See also [REDACTED].

<sup>1114</sup> See the footnote above with the relevant citations for this incident.

<sup>1115</sup> As regards these security reasons see [REDACTED] and Exh. D-8, pp. 3-4 and 6.

<sup>1116</sup> Exh. P-67, p. 00009675 refers to the diamonds later being given to General Ibrahim and sister Memuna for them to take to President Taylor.

<sup>1117</sup> [REDACTED]  
<sup>1118</sup> [REDACTED]

Diamonds delivered to Charles Taylor via Charles Taylor's "liaison officers," trusted subordinates and other members of the RUF

368. In addition to the diamonds taken directly to Charles Taylor by Sam Bockarie, throughout 1998 and during 1999, diamonds were also delivered to Taylor via his "liaison officers" and/or trusted subordinates, as well as by other members of the RUF. Taylor's "liaison officers" included: Jungle and Zigzag Marzah,<sup>1120</sup> and his trusted subordinates included Ibrahim Bah<sup>1121</sup> and Benjamin Yeaten.<sup>1122</sup> As regards Jungle, numerous witnesses gave evidence and documentary evidence supports the fact that after the intervention Jungle continued to operate as a conduit between Bockarie and Taylor – taking diamonds from Bockarie to Taylor and returning with arms, ammunition and other supplies.<sup>1123</sup> In addition to their role in delivering diamonds to Charles Taylor, these liaison officers/ subordinates also conducted transactions with diamond dealers at the behest of Taylor<sup>1124</sup> and were involved in the delivery of diamond mining equipment from Liberia to the AFRC/RUF diamond mines in Sierra Leone.<sup>1125</sup> The movements of Taylor's liaison officers/ subordinates between Sierra

<sup>1119</sup> In relation to this incident, see the testimony of [REDACTED].

<sup>1120</sup> TF1-399, TT, 12 March 2008, pp. 5877-78 and TT, 14 March 2008, p. 6132; Zigzag Marzah's involvement in transporting diamonds is corroborated by TF1-539, TT, 10 June 2008, pp. 11436-55, esp. at 11449-55: the witness testified about an occasion when Sam Bockarie delivered three mayonnaise jars full of diamonds to Benjamin Yeaten's house – the witness explained that Zigzag Marzah communicated with Sam Bockarie from the radio communications set at Sam Bockarie's house and was present along with the witness, Benjamin Yeaten, Mohamed Saleh and two Arab business men when the diamonds were inspected and handed over by Sam Bockarie to Benjamin Yeaten.

<sup>1121</sup> TF1-548, TT, 11 February 2008, pp. 3572-74; TF1-276, TT, 23 January 2008, p. 1975; See the para. above and associated citations in relation to the diamonds confiscated from Johnny Paul Koroma and note in particular, Exh. P-67, p. 00009675 / p. 4 which relates that the parcel of diamonds confiscated from Johnny Paul Koroma were later given to General Ibrahim and Sister Memuna "for them to travel with the parcels directly to President Taylor"; Exh. P-63, p. 15489 says "the CDS congratulated Col. Jungle and General Abraham for their sincerity and honesty in delivering the parcels that were given to them for our father across."

<sup>1122</sup> See the para. above and associated citations in relation to the diamonds confiscated from Johnny Paul Koroma; see also TF1-539, TT, 10 June 2008, pp. 11436-55, esp. at 11449-55.

<sup>1123</sup> TF1-388, TT, 9 July 2010, pp. 13353-57, esp. at pp. 13356-57, quotation at p. 13357. Jabaty Jaward gave evidence that he was present at Sam Bockarie's house in Kenema in 1998 when Sam Bockarie gave Jungle a parcel of diamonds and Sam Bockarie told Jungle "this is what I have now for the old man" referring to Charles Taylor. TF1-388, TT, 9 July 2008, pp. 13353-57 and pp. 14041-42; TF1-045, TT, 13 November 2008, pp. 20215-17; Exh. P-63, p. 15489 says "the CDS congratulated Col. Jungle and General Abraham for their sincerity and honesty in delivering the parcels that were given to them for our father across."

<sup>1124</sup> See the paragraph below referring to the Accused's efforts to distance himself from diamond dealers.

<sup>1125</sup> For example, Ibrahim Bah assisting with the delivery of diamond mining equipment to the AFRC/RUF – see DCT-172, TT, 14 July 2010, pp. 44464-65, 44476-78: Issa Sesay testified that when Bockarie left the RUF, Liberian security closed the border to all with the single exception that Taylor's emissary, Ibrahim Bah was allowed to cross the border into Sierra Leone with trucks filled with mining equipment; Exh. D-3, p. 00008779:

Leone and Liberia were organised and monitored via radio station's under Charles Taylor's control in conjunction with RUF radio stations.<sup>1126</sup>

369. In addition to Bockarie other members of the AFRC/RUF who transported diamonds to Taylor during 1998 included Eddie Kanneh and Issa Sesay.<sup>1127</sup> During 1999, Eddie Kanneh was frequently entrusted to deliver packages of diamonds from Bockarie to Charles Taylor in Monrovia.<sup>1128</sup> Diamonds mined in Kono were taken by Captain Kennedy (the RUF Mining Commander) to Bockarie, in Buedu. At Buedu, Sam Bockarie would give those diamonds to Eddie Kanneh to take to Taylor in Monrovia.<sup>1129</sup> The delivery of diamonds from Kono, to Buedu, and from Buedu to Monrovia was organised and monitored by the AFRC/RUF radio stations and the radio stations operated under Charles Taylor. These radio communications from Buedu would relay to either Benjamin Yeaten's radio Station ("Base 1") and/or Charles Taylor's radio station ("020") that Eddie Kanneh was coming with parcels of diamonds for "the chief" (Charles Taylor), and upon arrival in Monrovia, Eddie Kanneh would send a message back to Buedu confirming that he had arrived.<sup>1130</sup> One witness testified that the process of diamonds being taken from Kono (by Captain Kennedy) to Buedu, and then sent from Buedu to Taylor in Monrovia (by Bockarie via Eddie Kanneh) would recur "sometimes after two weeks, sometimes after one month."<sup>1131</sup>

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radio message on 12 January 2000 from Bah to Smile asking to "Info Monrovia to pick us up at the border today or latest tomorrow to speed up our movement."

<sup>1126</sup> See Section II.F.

<sup>1127</sup> Numerous witness gave evidence about diamonds that were given by Sam Bockarie to Issa Sesay for Issa Sesay to take to Charles Taylor and those diamonds subsequently being lost by Issa Sesay including: TF1-577, TT, 5 June 2008, p. 11055; TF1-584, TT, 18 June 2008, p. 12209 and 19 June 2008, p. 12231; TF1-274, TT, 4 December 2008, pp. 21689, 21691; TF1-275, TT, 21 February 2008, p. 4507; supporting documentary evidence includes Exh. P-67, p. 00009676.

<sup>1128</sup> TF1-516, TT, 10 April 2008, see in particular p. 7166, where the witness refers to Eddie Kanneh's trips to Monrovia in 1999 and pp. 7167-68, where the witness refers to Eddie Kanneh as traveling most often to Monrovia with diamonds, as compared to Sam Bockarie and Captain Kennedy, and moreover at p. 7168 and see generally, pp. 7163-68. See further: TF1-276, TT, 23 January 2008, p. 1972 and note also p. 1975; Exh. P-18, p. 18, para. 86; TF1-406, TT, 11 January 2008, pp. 1103-04: the witness testified that Eddie Kanneh told him that he was "a diamond business manager between the RUF and Taylor and the Liberian Government."

<sup>1129</sup> TF1-516, TT, 10 April 2008, pp. 7163-66; see further the references *ibid.* TF1-276, TT, 23 January 2008, p. 1972 and note also p. 1975; Exh. P-18, p. 18, para. 86.

<sup>1130</sup> TF1-516, TT, 10 April 2008, pp. 7163-66.

<sup>1131</sup> TF1-516, TT, 10 April 2008, p. 7168.

Lomé and Post Lomé (July 1999 – May 2000)

370. In July of 1999 Taylor encouraged the AFRC/RUF to the negotiations to sign the Lomé Accord.<sup>1132</sup> Significantly, the provisions of the Lomé Accord allowed the RUF to maintain control of Sierra Leone's diamonds.<sup>1133</sup> Foday Sankoh was appointed Commissioner for the Management of Strategic Resources, National Reconstruction and Development.<sup>1134</sup> This ensured RUF control over Sierra Leone's mineral resources, particularly diamonds. Moreover, this territorial concession enabled the RUF to continue to deliver diamonds to Taylor during the final years of the conflict. During his testimony, Taylor denied knowing that the Lomé Accord granted the RUF such control over the diamonding areas of Sierra Leone.<sup>1135</sup> However, as detailed in this section, Taylor had a hawkish interest in the diamond mining areas of Sierra Leone, in particular Kono, from the early years of the conflict, during the Junta Government period and through to 1999.<sup>1136</sup> Taylor's proclaimed ignorance as to the provisions of Lomé therefore beggars belief.

Issa Sesay's leadership period (June 2000 – the end of hostilities in 2002)

371. Sesay's leadership of the RUF significantly benefited Charles Taylor because Issa Sesay personally and/or via liaisons such as Eddie Kanneh delivered most of the diamonds mined by the RUF during this period to Taylor. The provisions of the Lomé Accord, which (as noted above) gifted the RUF control of the diamond mining areas of Sierra Leone, directly enabled Taylor to profit from Sierra Leone's diamonds which Sesay obediently delivered to him. Moreover, because Taylor had begun to assist the AFRC/RUF with mining operations in 1999 the diamond mines of Sierra Leone were more efficient than had previously been the case<sup>1137</sup> and this resulted in a greater number and quality of diamonds reaching the President in Monrovia – indeed during this period thousands of carats of diamonds were delivered to Charles Taylor.<sup>1138</sup> Sesay

<sup>1132</sup> TF1-597, TT, 3 June 2008, p. 10851.

<sup>1133</sup> DCT-172, TT, 23 August 2010, p. 4685; [REDACTED]

<sup>1134</sup> Exh. P-422, p. 2, Art 5(2).

<sup>1135</sup> Accused, TT, 26 November 2009, pp. 32623-24, 32601, 32545.

<sup>1136</sup> Further - the Accused's denial of hearing of Koidu as the diamond capital of Sierra Leone (Accused, TT, 25 November 2009, p. 32413) is therefore similarly implausible! See Section X.B.

<sup>1137</sup> See the paragraph below.

<sup>1138</sup> [REDACTED]; See TF1-567, TT, 2 July 2008, pp. 12862, 12866, 12902-03; TF1-516, TT, 10 April 2008, pp. 7171-72; TF1-338, TT, 2 September 2008, pp. 15157-61, 15164-69, 15171-72, 15192-93: stating that in 2002 Sesay said "he had diamonds with Charles Taylor up to 5,000 carats and he had \$150,000 that he had given to Charles Taylor for safekeeping and Charles Taylor had said any time

delivered diamonds to Taylor throughout his tenure as Interim Leader up until disarmament.<sup>1139</sup> Thus Taylor, like two headed Janus, purported to advance disarmament in Sierra Leone, whilst in reality he continued to profit from Sierra Leone's diamonds.

*Diamond Mining in Kono District and Tongo Fields and Charles Taylor's involvement in the same during Issa Sesay's leadership of the RUF*

372. During Sesay's leadership of the RUF, mining operations in locations across Kono District and in Tongo Fields were intensified and were more efficient than in previous years of AFRC/RUF control over the mining areas.<sup>1140</sup> The RUF now routinely utilised machinery, including caterpillars, bulldozers and bailing machines, in addition to the continued use of the forced labour of civilians.<sup>1141</sup> During Sesay's leadership, Charles Taylor continued to assist the RUF diamond mining operations: providing machinery,<sup>1142</sup> replacement machinery<sup>1143</sup> and, more frequently, provisions of fuel to ensure that the machinery could be operated.<sup>1144</sup> Taylor received frequent reports about mining operations in Sierra Leone, via radio communications from RUF radio stations in Kenema and Tongo to Benjamin Yeaten's radio station in Liberia.<sup>1145</sup>

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elections would be coming close he would assist the RUF and that was why he was keeping the diamonds." (quotation at p. 15192) The witness then stated that nobody in the RUF ever received these diamonds from Taylor; [REDACTED]; Exh. P-19, pp. 00030852-53.

<sup>1139</sup> TF1-360, TT, 8 February 2008, p. 3264.

<sup>1140</sup> TF1-360, TT, 6 February 2008, p. 3264; TF1-516, TT, 10 April 2008, p. 7175 & pp. 7169-70; TF1-567, TT, 2 July 2008, pp. 12862, 12885-88, 12913-12916 and TT, 4 July 2008, pp. 12943-47; TF1-388, TT, 2 September 2008, p. 15151 [REDACTED]; DCT-172, TT, 26 August 2010, pp. 47283, 47285; Exh. P-19, pp. 00030852-53.

<sup>1141</sup> TF1-360, TT, 6 February 2008, p. 3264, where the witness explains that mining operations were more effective during Issa Sesay's leadership because of the use of caterpillars and other machines; and pp. 3265-66 where the witness gives evidence about the continued use of forced civilian labour under Issa Sesay.

<sup>1142</sup> TF1-568, TT, 15 September 2008, pp. 16191-92.

<sup>1143</sup> TF1-367, TT, 21 August 2008, pp. 14197-98.

<sup>1144</sup> TF1-338, TT, 2 September 2008, p. 15166. The witness testified that Issa Sesay travelled to Monrovia at the end of 2000 into the beginning of 2001 and returned to Sierra Leone with supplies including diesel that would be used on the machines for diamond mining in Kono - the Caterpillars that were used to dredge the ground to pave the way so that the manpower could go and mine there for diamonds; and further p. 15170, where the witness explains that Issa Sesay returned to Sierra Leone with diesel used for the caterpillars when mining, after a trip to Monrovia to deliver diamonds to Charles Taylor in March-May 2001 (p. 15167); see also TF1-367, TT, 21 August 2008, p. 14197, who testified that diesel and petrol for the machines would be provide from Monrovia. TF1-360, TT, 6 February 2008, p. 3268, where the witness refers to Issa Sesay making trips to Liberia every two weeks and returning from having seem Charles Taylor with vehicles and diesel, petrol and engine oil for the machines that they were working in the field, and also p. 3269.

<sup>1145</sup> TF1-516, TT, 10 April 2008, pp. 7177-79 (as regards Tongo, see specifically p. 7177 and as regards Kono see pp. 7178-79). The witness speaks of radio communications with Benjamin Yeaten. The Prosecution relies on Section II.F in support of the inference that Benjamin Yeaten (as Taylor's number 2) reported such radio communications to Charles Taylor; TF1-568, TT, 15 September 2008, pp. 16187-88.

*Diamonds delivered to Charles Taylor by Issa Sesay*

373. After his appointment as Interim Leader of the RUF, Issa Sesay frequently delivered parcels of diamonds to Charles Taylor.<sup>1146</sup> Numerous witnesses gave evidence about Sesay's trips from Sierra Leone to Liberia to deliver diamonds to Charles Taylor.<sup>1147</sup> Sesay's movements to Monrovia with diamonds for Taylor were organised and monitored by RUF radios and radio stations operating under Charles Taylor's control.<sup>1148</sup>

374. [REDACTED] Issa Sesay's trips to take diamonds to Charles Taylor [REDACTED] a trip made by Sesay at the end of 2000. [REDACTED] when Sesay arrived in Monrovia he was received by Benjamin Yeaten, taken to the guesthouse and was taken to see Charles Taylor at the Executive Mansion Ground at night. [REDACTED] Sesay presented Taylor with "many diamonds" [REDACTED] wrapped in paper in a circular form, sellotaped and large enough to fit from "*the second lining of my fingers to the end of my palm.*" [REDACTED] Sesay had expected to receive supplies in return for the diamonds he had brought for Taylor. However, Taylor explained that "*this one is for safekeeping until your leader [Foday Sankoh] returns*" and said:

Look at these diamonds. These were the diamonds that Mosquito brought when he was in charge of the revolution. I am keeping them until the time Foday Sankoh will be released then I will hand them over to him...but meanwhile I will help you with whatever you need for the revolution in Sierra Leone...But the diamonds I am going to have them for safekeeping until Pa Sankoh returns.<sup>1149</sup>

<sup>1146</sup> TF1-360, TT, 6 February 2008, pp. 3267-68.

<sup>1147</sup> TF1-360, TT, 6 February 2008, pp. 3267-68; TF1-338, TT, 2 September 2008, pp. 15156-60 and pp. 15164-66, 15167-70; [REDACTED]; TF1-375, TT, 24 June 2008, pp. 12686-89, esp. at p. 12689 where the witness recounts that "Issa Sesay said that the diamonds he had brought and gave to the President, he was expecting half a million, half of a million for those types of diamonds, \$500,000 USD."; TF1-399, TT, 14 March 2008, p. 6132; TF1-568, TT, 15 September 2008, pp. 16186-88; TF1-045, TT, 13 November 2008, p. 20247; TF1-568, TT, 15 September 2008, pp. 16187-88 and note the similar testimony about the 52-carat diamond from Tongo by TF1-045, TT, 13 November 2008, p. 20248; TF1-567, TT, 7 July 2008, pp. 13002-04; See Section II.F.

<sup>1148</sup> TF1-568, TT, 15 September 2008, pp. 16187-88 and note the similar testimony about the 52-carat diamond from Tongo by TF1-045, TT, 13 November 2008, p. 20248; TF1-338, TT, 2 September 2008, p. 15158; See further the radio communications section of the Brief.

<sup>1149</sup> [REDACTED] Taylor as telling Sesay "*that he shouldn't be coming frequently with diamonds to him.*" Note that at pp. 15161-64 the witness gives evidence about materials given to Issa Sesay on this occasion from Camp Schefflin barracks which were subsequently transferred from Liberia to Koidu Town (See Section II.D); see also [REDACTED].

[illegible]

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\_\_\_\_\_

\_\_\_\_\_

1150	[REDACTED]
1151	[REDACTED]
1152	[REDACTED]
1153	[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

379. Towards the end of the conflict, Taylor became increasingly conscious of and concerned about the international communities knowledge about his connections with the RUF;<sup>1156</sup> which first received international public attention with the publication of “Heart of the Matter” in January 1999.<sup>1157</sup> As a consequence, Taylor instructed Sesay to stop bringing diamonds *directly* to him but instead to use “middle men” and/ or “diamond dealers.” Taylor warned Sesay that he should no longer come directly to him with diamonds because the United Nations and the international community “*was having eyes on him to see whether he had connections with the RUF*” and therefore Taylor would facilitate a middle man to whom Sesay could deliver diamonds to on future occasions.<sup>1158</sup> [REDACTED]

[REDACTED]

[REDACTED]

1154 [REDACTED]

1155 [REDACTED]

<sup>1156</sup> See Section IV.

<sup>1157</sup> Exh. P-19, Annex 6.

<sup>1158</sup> TF1-338, TT, 2 September 2008, pp. 15167-70, quotation at p. 15168. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 1159 [REDACTED]

[REDACTED]

[REDACTED] 1160 [REDACTED]

380. The Accused tried to distance himself from the diamond dealers referred to by witnesses TF1-338 and TF1-590<sup>1161</sup> but their evidence demonstrated that Taylor himself authorized the RUF dealings with these dealers.<sup>1162</sup> Exhibit D-393 was a Belgian Police report examining some of the particular aspects of the RUF diamond trade in 1999-2001. Despite the protestations by Charles Taylor,<sup>1163</sup> the report clearly corroborates the evidence of witnesses who refer to “dealers” in Sierra Leone, in that the “dealers” were present in Sierra Leone under the auspices of Taylor.<sup>1164</sup> Taylor himself acknowledged the possibility that members of his own SSS and ATU were involved in these transactions including Benjamin Yeaten.<sup>1165</sup> This is not dissimilar from the Defence’s other contentions that perhaps others were involved in supplying ammunitions to the RUF but that Taylor had no knowledge of this despite his allegedly intimate role during this period working with RUF leaders “for peace.”

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<sup>1161</sup> TF1-590, while unable to give the names of the individuals, testified to observing two dealers who were representing Mr. Taylor with Sam Bockarie in Voinjama on a convoy going to Sierra Leone. See TF1-590, TT, 16 June 2008, p. 11830. See also TF1-516, TT, 10 February 2008, pp. 7171-72; TF1-516, TT, 20 August 2008, p. 14157; TF1-367, TT, 1 September 2008, pp. 15032-33; TF1-360, TT, 6 February 2008, pp. 3263-69; TF1-568, TT, 15 September 2008, pp. 16189-92 and 16 September 2008, pp. 16386-87, 16396-03 and 17 September 2008, pp. 16405-09.

<sup>1162</sup> See Accused, TT, 5 November 2009, pp. 31285-26.

<sup>1163</sup> Accused, TT, 5 November 2009, pp. 31322-26 and 2 February 2010, p. 34851.

<sup>1164</sup> See Exh. D-393 and in particular pages 00010249, 00102157, 00102158 and 00102160 and conclusions one and three of report. It should be noted that despite what the Accused Counsel stated in a question as to the reason for this report’s preparation, there is nothing to indicate that the report was “prepared at the request of David Crane.” (See Defence Counsel question, Accused, TT, 5 November 2009, p. 31288.) Rather as report itself indicates on its cover letter it was transmitted to the Office of the Prosecutor pursuant to a request. This is relevant in that the report was not actually prepared in an Investigation against the Accused specifically but rather certain individuals associated with the trade in conflict diamonds, namely “Assour Aziz” and Osseily Samih.”

<sup>1165</sup> Accused, TT, 5 November 2009, pp. 31294, 31311.

*Diamonds delivered to Charles Taylor via his trusted subordinates and by other members of the RUF*

381. Under Sam Bockarie's leadership Eddie Kanneh had taken diamonds to Charles Taylor in Monrovia. During Sesay's leadership Eddie Kanneh continued to transport diamonds to Taylor.<sup>1166</sup> As previously, the delivery of diamonds from Sierra Leone to Taylor in Monrovia was supervised and monitored by RUF radio stations and radio stations under Charles Taylor's control.<sup>1167</sup> [REDACTED]

[REDACTED]

[REDACTED] 1168 [REDACTED]

[REDACTED] 1169

[REDACTED]

[REDACTED]

[REDACTED] 1170

#### Charles Taylor Reaped the Benefits

382. The evidence outlined above demonstrates beyond any reasonable doubt that Charles Taylor was directly involved with the AFRC/RUF's diamond mining operations,<sup>1171</sup> and

<sup>1166</sup> TF1-516, TT, 10 April 2008, pp. 7171-74; [REDACTED].

<sup>1167</sup> TF1-516, TT, 10 April 2008, p. 7171 - 7174. The witness testified as follows at p. 7172: "Q: Under the leadership of Issa Sesay, you said he [Eddie Kanneh] continued to come to Monrovia and he would bring diamonds. Who was he coming to see? A. To see the chief, Charles Taylor. Q. How did you know that he continued to come and see the chief? A. Before his movement we received information, or I used to get a message from General Issa's station that Eddie Kanneh was travelling with a parcel to see the chief. Q. Now, up to what time would you say that diamonds continued to come from Sierra Leone into Liberia? ...A. Until the last day I left Vahun ... That was late 2001."

<sup>1168</sup>

[REDACTED]

(See Exh. D-393, p. 00102160).

<sup>1169</sup>

<sup>1170</sup> See the para. above. Note also: Exh. P-18.

<sup>1171</sup> In this regard all of the evidence set out in this section is relied upon. For further support of the same see also: Exh. P-19, esp. at p. 8 where Ian Smillie notes that the figure for the export of diamonds from Liberia between 1990-1999 (five million carats) is "five times the volume exported at the height of Liberia's diamond smuggling in 1961, and 24 times more than the average production in the five pre-war years," and pp. 10-11 where Smillie concluded that "During the 1990s, therefore, even with allowances for the war, as much as 300,000 - 400,000 carats per annum may have been smuggled out of Sierra Leone during the periods when the RUF controlled Kono Districts and Tongo Fields, which could have been worth between \$60 and \$80 million

that Taylor received a windfall profit from his receipt of AFRC/RUF diamonds. Defence witness DCT-292 (John Vincent) testified that neither the people of Sierra Leone nor the RUF realized the benefits of the diamonds mined by the AFRC/RUF.<sup>1172</sup> During cross-examination, DCT-172 (Issa Sesay) could not account for the diamonds mined by the RUF during his tenure as Interim Leader.<sup>1173</sup> Ian Smillie testified that a reasonable estimate for the diamond production from Sierra Leone during the war years would be \$70 million (US) per year.<sup>1174</sup> Clearly the RUF and Issa Sesay could not account for even a small percentage of this total; lending strong corroboration to the Prosecution evidence that the diamonds were going to Taylor. Charles Taylor purported to those in the upper echelons of the AFRC/RUF including Sam Bockarie and Issa Sesay to be holding their diamonds in safekeeping.<sup>1175</sup> However, in reality these diamonds were never returned to the RUF,<sup>1176</sup> rather, they lined the pockets of its father, Charles Taylor.

### III. B. RUF, AFRC/RUF AS PROXY FORCE

383. Throughout the conflicts in Liberia and Sierra Leone, Taylor made free use of his proxy forces, the RUF and later the AFRC/RUF. As discussed in Section II.A., during the early years of the conflict in Sierra Leone, Taylor used the RUF to fight against ULIMO in Liberia. Taylor used the AFRC/RUF to fight against his foes in Liberia from 1999 onward, and used them to launch operations into Guinea. Taylor also used Sam Bockarie and the RUF personnel who accompanied him to Liberia in December 1999 to fight for Taylor's allies in Ivory Coast. Taylor made use of RUF personnel in non-fighting roles as well; for example Taylor used RUF radio operators in Liberia.<sup>1177</sup>

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per annum); Exh. P-18, para. 86 (where the Panel of Experts concluded that "there is sufficient evidence to prove that this trade cannot be conducted in Liberia without the permission and involvement of the government").

<sup>1172</sup> DCT-292, TT, 1 June 2010, pp. 41804-05 (the witness stated: "*My Lord, I have to be fair enough. Diamonds that were received by the RUF, these diamonds, the only one that can tell you about the whereabouts of these diamonds is Issa Sesay himself*" and at p. 41805 (the witness was asked what benefit either the RUF or the people of Sierra Leone received from the diamonds that were going to Issa Sesay between May 2000 to May 2003 and the witness responded: "*My Lord, I didn't see any benefit. There was no benefit at all.*"

<sup>1173</sup> DCT-172, TT, 13 August 2010, pp. 46248-53, 46259-61.

<sup>1174</sup> Ian Smillie, TT, 7 January 2008, pp. 578-9 (where he agrees with the \$70 million estimate of De Beers) and Exh. P-19.

<sup>1175</sup> Exh. P-18, para. 86; TF1-338, TT, 2 September 2008, p. 15193.

<sup>1176</sup> See for example TF1-338, TT, 2 September 2008, p. 15193.

<sup>1177</sup> TF1-516, TT, 16 April 2008, p. 7743; TF1-585, TT, 9 September 2008, pp. 15832-3; TF1-567, TT, 7 July 2008, p. 13043.

### Used RUF in Liberia in 1993

384. Taylor made use of his surrogate forces to fight for him in Liberia in 1993. In an unsuccessful attempt to keep the supply lines open, at Taylor's direction, Sankoh sent RUF personnel under the command of Morris Kallon to Liberia to fight with Taylor's NPFL against ULIMO. Kallon was tasked to open the way to Gbarnga and get materiel from Taylor. Kallon returned to Sierra Leone from Liberia in about 1994 via Guinea, without arms or ammunition.<sup>1178</sup>

### Used AFRC/RUF to fight in Liberia in 1999 and to facilitate ongoing concerted action between AFRC/RUF and Taylor

385. Taylor made free use of AFRC/RUF forces to assist him in his fight against foes that attacked his forces in 1999 and onward. Taylor's Liberian forces were attacked in April and August 1999, including an attack by Mosquito Spray. One of Taylor's responses to these attacks was to order Bockarie to send manpower. Bockarie complied with that order and sent fighters to assist Taylor's Liberian subordinate units including his ATU. The AFRC/RUF operated under the overall command of Taylor's Liberian subordinates.<sup>1179</sup> Yeaten had a message transmitted saying that if Bockarie, Sesay and other commanders did not take the "Voinjama issue" seriously it will be like the situation faced in 1993 so the "Voinjama issue" could not be taken lightly.<sup>1180</sup> During the joint operation against Mosquito Spray, Bockarie was based in Foya, Liberia. After the successful completion of the operation, Bockarie, Yeaten and Taylor's Defence Minister Daniel Chea went by helicopter to Monrovia.<sup>1181</sup> Bockarie sent other

<sup>1178</sup> [REDACTED]; see also TF1-577, TT, 4 June 2008, pp. 10935-39; TF1-360, TT, 6 February 2008, p. 3272; TF1-567, TT, 2 July 2008, pp. 12867-68; TF1-388, TT, 9 July 2008, pp. 13261-63, 13290-93; see also TF1-516, TT, 9 April 2008, pp. 7043-47, 7050, 7077-81; DCT-146, TT, 12 April 2010, p. 38733.

<sup>1179</sup> TF1-276, TT, 23 January 2008, pp. 2045-48 & 24 January 2008, pp. 2138-39; TF1-516, TT, 8 April 2008, pp. 6872-75 & 9 April 2008, pp. 7047-49; TF1-567, TT, 7 July 2008, pp. 13085, 13107; TF1-334, TT, 24 April 2008, pp. 8510-11, 8515-16; TF1-338, TT, 1 September 2008, pp. 15117-18; witness present at meeting when Taylor thanked Bockarie for securing Foya and Voinjama against LURD; TF1-571, TT, 9 May 2008, pp. 9458-61; witness confused the year saying this was 1998 but the evidence in the case is clear that the first attacks by dissidents in Lofa County occurred in April and August 1999; TF1-571, TT, 12 May 2008, p. 9606; TF1-375, TT, 24 June 2008, pp. 12617-23; TF1-532, TT, 31 March 2008, pp. 6163-64; TF1-539, TT, 11 June 2008, p. 11541; TF1-274, TT, 2 December 2008, p. 21489; [REDACTED]; TF1-585, TT, 8 September 2008, pp. 15732-34; TF1-577, TT, 5 June 2008, pp. 11099-102; TF1-561, TT, 15 May 2008, pp. 9956-57; TF1-360, TT, 6 February 2008, pp. 3273-74; Exh. P-389, pg. 1: Mosquito Spray involved in an August attack; Exh. D-357, p. 1.

<sup>1180</sup> TF1-516, TT, 8 April 2008, pp. 6967-68.

<sup>1181</sup> TF1-276, TT, 23 January 2008, pp. 2045-48 & 24 January 2008, pp. 2138-39.

subordinates to Liberia during this time, to facilitate the AFRC/RUF support to Taylor and the ongoing concerted action between Taylor and his surrogate forces.<sup>1182</sup>

386. Some, but not all, the witnesses who testified about Bockarie sending fighters to Liberia in 1999 to assist Taylor's forces identified the foe as Mosquito Spray.<sup>1183</sup> Some witnesses gave differing time periods in 1999 for this reinforcement of Taylor's Liberian forces, which is not surprising given the passage of time.<sup>1184</sup> In relation to the Mosquito Spray attack, Taylor himself was confused as to the date, testifying first that the attack was in 1998, somewhere late 1998,<sup>1185</sup> then later telling the court that the Mosquito Spray attack occurred, could have occurred, if he was not mistaken, around the time he began to move people to Lomé,<sup>1186</sup> which would have been around April 1999, then seemingly agreeing that the Mosquito Spray attack occurred in August 1999.<sup>1187</sup> Media reports and some witnesses place the Mosquito Spray attack in August 1999.<sup>1188</sup> Some of the witnesses referred to these forces attacking Taylor in 1999 as "LURD." This reference is corroborated by Taylor himself, as Taylor told the Court, in reference to Mosquito Spray, later on "we got to know they were LURD." Taylor also explained that he assumed "Mosquito Spray was former ULIMO because most of the LURD were ULIMO."<sup>1189</sup> This is reasonable and explains why some witnesses referred to the LURD attackers, or attacks, as ULIMO. It also explains why, during Taylor's Presidency, some witnesses referred to Taylor's forces, escorts/couriers, liaison personnel as NPFL - many, if not most, of these individuals were former NPFL.

<sup>1182</sup> TF1-516, TT, 8 April 2008, pp. 6858-60, 6862, 6967- 68, 6872-74: witness was sent to Liberia to work with Yeaten aka 50 or Unit 50 in 1999 after Bockarie's men fought in Liberia against Mosquito Spray, to work for smooth communications, remained in Liberia until late 2001; TF1-516, TT, 8 April 2008, pp. 6955-57: 1999 onward, special group of armed men assigned to Foya, Foya a strategic point to coordinate movement of those sent from Monrovia and those to be taken to Monrovia, such as Eddie Kanneh who came there to take diamonds to Monrovia, the flow of RUF personnel across the border was frequent; [REDACTED]

<sup>1183</sup> TF1-334, TT, 24 April 2008, pp. 8503 – 16; TF1-276, TT, 23 January 2008, pp. 2045 – 47; TF1-274, TT, 3 December 2008, p. 21533; TF1-532, TT, 31 March 2008, pp. 6163 – 64.

<sup>1184</sup> During direct examination, Defence Counsel reminded Taylor that his questions were not a "memory test." e.g. Accused, TT, 21 July 2009, pp. 24910, 24915; 28 July 2009, pp. 25444-5. On cross-examination, the Accused reiterated this assertion. Accused, TT, 25 November 2009, p. 32348.

<sup>1185</sup> Accused, TT, 15 September 2009, p. 28958.

<sup>1186</sup> Accused, TT, 15 September 2009, p. 28960.

<sup>1187</sup> Accused, TT, 26 November 2009, pp. 32577 – 78.

<sup>1188</sup> TF1-334, TT, 24 April 2008, pp. 8510, 8515 -16: it was in August when Mosquito Spray attacked, at the time when the witness and others along with Johnny Paul Koroma met with Taylor; TF1-276, TT, 23 January 2008, pp. 2045-47: this witness was one of the commanders sent to join with Taylor's Liberian forces against Mosquito Spray in August 1999; see also Exh. P-389, first page.

<sup>1189</sup> Accused, TT, 15 September 2009, p. 28959; see also 26 November 2009, p. 32581: when the Accused was asked about the April and August 1999 attacks, the Accused said that most of the forces that came were ex ULIMO.

387. Whenever the Mosquito Spray attack occurred, by whatever name the attacking forces were known in 1999, the evidence shows that in 1999 Bockarie obeyed Taylor's order to send Taylor's proxy forces, AFRC/RUF fighters, to Liberia to reinforce Taylor's own Liberian subordinates to repel these attacks.

Absorbed Bockarie's fighters into his security forces, mostly the ATU

388. When Bockarie fled to Liberia in December 1999, seeking refuge with Taylor, Taylor took control over virtually all the RUF personnel who had accompanied Bockarie. Taylor absorbed these personnel into his security forces, most of them into the ATU. Thereafter these personnel served under the command of Taylor's Liberian subordinate commanders, and fought for Taylor in Liberia as part of the ATU, the SSS or were assigned to duty with Taylor's high level security commanders.<sup>1190</sup>

Used AFRC/RUF fighters against LURD in Liberia and Guinea during Issa Sesay's reign

389. Throughout Sesay's reign as leader of the RUF, in obedience to Taylor's instruction, Sesay provided manpower to fight for Taylor in Liberia and in Guinea, under the overall command of Taylor's senior Liberian commanders. Sesay continued to comply with this instruction, even after Superman's execution and when he had to arrest men to make them go on these missions.<sup>1191</sup> One of the reasons Sesay's forces were slow to disarm was because they were assisting Charles Taylor.<sup>1192</sup> Sesay sent significant numbers of fighters from the various units stationed at diverse locations and commanders to include Superman, Barbue, and Eagle aka Karmoh Kanneh.<sup>1193</sup>

<sup>1190</sup> TF1-388, TT, 10 July 2008, p. 13441-51; [REDACTED]; TF1-406, TT, 9 January 2008, p. 882: the witness, SSS Assistant Director of Operations in Monrovia at the time, stated that they had more than 350 RUF soldiers Sam Bockarie brought over to enlist into the ATU; TF1-375, TT, 24 June 2008, p. 12631; [REDACTED]

[REDACTED]; See also Accused, TT, 17 August 2009, p. 26923-24: stating 'I took these other boys and I put them in the ATU and trained them.'; TF1-585, TT, 8 September 2008, pp. 15744-8; Exh. P-18, para. 183; DCT-008, TT, 30 August 2010, pp. 47496-78; TF1-579, TT, 5 November 2008, pp. 19850-51.

<sup>1191</sup> See Section X.; see also for example TF1-516, TT, 9 April 2008, pp. 7075-76, 7081-89; [REDACTED]; but see TF1-360, TT, 6 February 2008, p. 3273: the great weight of the evidence is contrary to this statement.

<sup>1192</sup> See for example TF1-338, TT, 5 September 2008, pp. 15556-57: disarmament delayed because Taylor had given Sesay instructions to enter Guinea through Pamelap; TF1-577, TT, 13 May 2008, p. 9658: Sesay told witness he was not to allow disarmament in Kailahun District because Taylor had given Sesay a mission to go to Guinea.

<sup>1193</sup> TF1-516, TT, 9 April 2008, p. 7056; TF1-567, TT, 7 July 2008, 13041-43; TF1-388, TT, 9 July 2008, pp. 13259-60; [REDACTED]; TF1-375, TT, 24 June 2008, pp. 12664-67: Superman fought in Liberia under the command of Yeaten and alongside ATU, SSS and militias.

## In Liberia

390. In 2000 and 2001, per Taylor's instructions, AFRC/RUF fighters continued to fight in Liberia alongside Taylor's Liberian forces.<sup>1194</sup> When Foya came under attack from LURD, Sesay's forces under Superman and Liberian forces repelled that attack. However, thereafter Foya was the subject of frequent attacks; control shifting between Taylor's combined Liberian forces and his surrogate forces, the AFRC/RUF, and LURD. At one point the combined force retreated from Foya and based out of Buedu for attacks to try to regain control of Foya. From the time that they were forced to retreat from Foya until late in the rainy season in 2001, AFRC/RUF fighters combined with Taylor's Liberian forces to try to retake Foya, with Yeaten as the overall commander.<sup>1195</sup>

## Guinea

391. Sesay also supplied manpower to his "big revolutionary father," Taylor, for operations in Guinea.<sup>1196</sup> In another instance, Taylor told Sesay to capture territory in Guinea so that arms could be kept there for safe-keeping during the Sierra Leone disarmament. Thereafter, Sesay's forces attacked Madina Wola in Guinea, but withdrew after suffering casualties from military helicopters and jets.<sup>1197</sup> At one point Sesay recalled Superman from Voinjama, where he was fighting alongside Taylor's Liberian forces, to lead an attack against the Kissidougou area. Superman's forces were forced to retreat back into Sierra Leone after a month.<sup>1198</sup> After that failed mission, Superman was ordered to, and did, participate in other attacks into Guinea.<sup>1199</sup>

392. Yet another operation into Guinea was Operation No Taking Side, undertaken in January 2001. One of the subordinate commanders in this operation was Abu Keita,

<sup>1194</sup> See for example TF1-338, TT, 2 September 2008, pp. 15186-87.

<sup>1195</sup> See for example TF1-516, TT, 9 April 2008, pp. 7075-76, 7081-89.

<sup>1196</sup> See for example TF1-338, TT, 2 September 2008, pp. 15178-88, [REDACTED] TF1-516, TT, 9 April 2008, pp. 7009-10, 7073-82; TF1-567, TT, 7 July 2008, p. 13108-13109; TF1-406, TT, 10 January 2008, pp. 916-917; TF1-571, TT, 12 May 2008, pp. 9507, 9512-13; [REDACTED]; TF1-337, TT, 5 March 2008, pp. 5337-5338; TF1-406, TT, 10 January 2008, 916-917; TF1-276, TT, 23 January 2008, pp. 2048-50; 24 January 2008, pp. 2119-20; DCT-146, TT, 12 April 2010, pp. 38757-79: the witness sent one of his armourer personnel to support the AFRC/RUF mission against the Pamelap area in Guinea.

<sup>1197</sup> TF1-276, TT, 23 January 2008, pp. 2048-50: the witness was one of the commanders involved in the operations in Guinea; See also TF1-367, TT, 21 August 2008, pp. 14256-57: referring to the attacks on Madina Wola. See also TF1-338, TT, 5 September 2008, p. 15566.

<sup>1198</sup> TF1-338, TT, 2 September 2008, pp. 15178-79; TF1-516, TT, 9 April 2008, p. 7072-74; TT, 23 January 2008, pp. 2048-51.

<sup>1199</sup> TF1-516, TT, 9 April 2008, pp. 7073-82.



whom Taylor had sent to assist Bockarie at the end of 1998 and who was to command the Scorpion Unit.<sup>1200</sup> The order to carry out this operation bears two signatures, Issa Sesay and Benjamin Yeaten, both signatures recognized by several witnesses.<sup>1201</sup> Issa Sesay's evidence regarding this exhibit is illustrative of his overall lack of credibility as a truthful witness before this court. On direct examination he was shown Exhibit P-28. On that occasion, having been alerted that the document was a Prosecution exhibit, he denied the signature was his. However, on cross examination, when shown a number of signatures, all purported to be his but with no information to identify from which document each signature was taken, Sesay identified the signature copied from Exhibit P-28 as his signature.<sup>1202</sup> During the operation Sesay and Yeaten travelled by helicopter to Monrovia. Although the initial attack on Gueckedou was successful, the combined RUF and Liberian forces suffered significant casualties and were subsequently forced to retreat.<sup>1203</sup>

393. Taylor provided the arms and ammunition needed for these operations.<sup>1204</sup> Yeaten was in regular radio communication with Sesay concerning supplies and manpower requests for the Lofa operations and other matters mostly related to LURD insurgency.<sup>1205</sup> For example, around August, September 2000, by arrangement between Taylor and Issa Sesay, materiel was taken from an area at the back of White Flower and flown by helicopter to Foya. ATU men accompanied the materiel and Issa Sesay. The materiel was then taken by road into Sierra Leone, at night to avoid UNAMSIL. According to Sesay, the materiel was later used to attack Guinea.<sup>1206</sup> Also, in 2000 during Issa Sesay's regime, when Superman was fighting in Lofa County, Liberia, Roland Duoh aka Amphibian Father, and Liberian Mosquito brought materiel to Buedu. In 2001 Momoh Gibba aka "50" took arms to Yeaten's residence in Monrovia. Yeaten later took the materiel from his house to Foya; some of the weapons were then sent to Sesay

<sup>1200</sup> Exh. P-28; TF1-276, TT, 23 January 2008, p. 2051 – 54; TF1-516, TT, 9 April 2008, pp. 7067 – 72.

<sup>1201</sup> Exh. P-28; TF1-276, TT, 23 January 2008, p. 2051 – 55; see also TF1-406, 9 January 2008, pp. 861-62, 10 January 2008, 916-917, 14 January 2008, 1191 – 1192; see also, DCT-179, TT, 1 March 2010, pp. 36321-23 and Exh. D-104B, Exh. D-105B; DCT-292, TT, 3 June 2010, p. 42036; DCT-215, TT, 31 March 2010, pp. 38435-37.

<sup>1202</sup> DCT-172, TT, 25 August 2010, pp. 47061-62, 47084-86.

<sup>1203</sup> TF1-338, TT, 2 September 2008, pp. 15180–181; TF1-276, TT, 23 January 2008, pp. 2051 – 54.

<sup>1204</sup> [REDACTED]; TF1-337, TT, 5 March 2008, pp. 5337-38; TF1-276, 23 January 2008, p. 2055; [REDACTED]; [REDACTED].

<sup>1205</sup> TF1-516, TT, 9 April 2008, pp. 7040-56, 7112-14; [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13085, 13107; TF1-276, TT, 23 January 2008, pp. 2045-47.

<sup>1206</sup> TF1-571, TT, 12 May 2008, pp. 9503-10.

in Kono and other weapons kept in Foya. The weapons at Foya were used by RUF fighters for an operation into Guinea.<sup>1207</sup>

394. Continuing the pattern that had been established earlier in Liberia and in Sierra Leone, during these joint operations Taylor's Liberian subordinates and the AFRC/RUF fighters committed crimes against civilians in Liberia and in Guinea.<sup>1208</sup>
395. While Taylor denied receiving any assistance from the AFRC/RUF, his testimony was contradicted by his own witness, who confirmed that the AFRC/RUF fought together with Taylor's AFL against the LURD.<sup>1209</sup>

Sent Bockarie and his RUF followers to fight for his allies in Ivory Coast

396. Bockarie stayed in Monrovia for some time<sup>1210</sup> before being sent on various missions.<sup>1211</sup> [REDACTED],<sup>1212</sup> Taylor used Bockarie and many of the subordinates who fled with him to fight for Taylor's allies in Ivory Coast.<sup>1213</sup> Taylor instructed Bockarie to join the Ivorian rebels in their fight against the central government. Other former RUF were sent from Gbarnga to join the fighting in Ivory Coast; Taylor also sent Liberian subordinates from several locations to join the fighting, including Sampson and Mike, whom Taylor had used to escort materiel to Buedu. Some of these fighters came into Ivory Coast via Danane. While in Ivory Coast Bockarie communicated with Taylor and Yeaten. At one point Yeaten instructed the fighters in Ivory Coast to bring captured anti-aircraft weapons to Danane so they could be taken to Liberia and used against the rebels.<sup>1214</sup> While in Ivory Coast a

<sup>1207</sup> TF1-516, TT, 8 April 2008, pp. 6957-60.

<sup>1208</sup> See for example TF1-516, TT, 9 April 2008, pp. 7051-53; Exh. D-357 regarding looting by undisciplined and aggressive Liberian government security forces after an April 1999 attack in Voinjama; and Exh. P-585, which reports that, in an attack on Gueckedou, Liberian and Sierra Leonean rebels burned many homes and public buildings and "bodies littered the streets."

<sup>1209</sup> DCT-215, TT, 26 March 2010, pp. 38161-62 and 30 March 2010, p. 38260: the witness among the joint forces fighting against LURD and agreed that the RUF and Taylor's AFL fought together to attack Gueckedou and other towns in Guinea after Lomé.

<sup>1210</sup> TF1-375, TT, 24 June 2008, p. 12632: according to the witness, who worked for Yeaten in Monrovia, Bockarie was used in the SSS as Yeaten's advisor.

<sup>1211</sup> e.g., [REDACTED]. See also TF1-388, TT, 2 September 2008, p. 15180: RUF in Liberia forced to go to Gueckedou to fight.

<sup>1212</sup> [REDACTED]; Exh. P-486, p. 00032042-43: Musa Cisse passport showing entries into Ivory Coast and other destinations that discredit the Accused's testimony [REDACTED]

<sup>1213</sup> TF1-388, TT, 11 July 2010, p. 13510; TF1-585, TT, 8 September 2008, pp. 15749-51; [REDACTED]

<sup>1214</sup> TF1-388, TT, 10 July 2008, pp. 13473-78 and 11 July 2008, p. 13526-31; [REDACTED]

delegation of Taylor's subordinates came to investigate the killing of one of Taylor's Liberian subordinates, one of Yeaten's bodyguards. The members of the delegation included a fighter called High Command, who was a bodyguard to Superman before Superman's execution, then later one of Yeaten's bodyguards.<sup>1215</sup>

### III. C. TAYLOR RECEIVED WEAPONS FROM AFRC/RUF

397. Taylor provided the RUF, and later AFRC/RUF, with weapons throughout the conflict in Sierra Leone. However, occasionally, the RUF, AFRC/RUF sent Taylor weapons.

#### Sesay sent weapons seized from Peacekeepers

398. When AFRC/RUF forces captured UN Peacekeepers in May 2000, they also captured large quantities of materiel and equipment, including heavy weapons, armoured personnel carriers (APCs), as well as small arms and ammunition. Sesay did not return most of this materiel, much of the materiel and equipment that was returned was not in serviceable condition or, in regard to the APCs, on Sesay's instruction, had been stripped of their weaponry.<sup>1216</sup> Instead, Sesay sent at least a portion of the seized weaponry to Taylor; where it was used by Taylor personal convoy and by his ATU against LURD.<sup>1217</sup> Sesay also provided a captured UN vehicle to an RUF representative who was assigned in Liberia at Taylor's direction to coordinate and facilitate travel between AFRC/RUF territory and Monrovia and shipments of materiel from Taylor to the AFRC/RUF.<sup>1218</sup>

#### Materiel that Taylor supplied Sesay was returned to Taylor

399. In mid-2001 when General Opande approached Issa Sesay about disarming child combatants, i.e., the SBU and SGU –some around the ages of 10, 12 and 14 years old, Sesay replied he would have to consult the RUF family. Thereafter he travelled to Monrovia to brief Taylor on this issue and seek Taylor's "advice," to "consult." Taylor first asked Sesay if it was safe for Sesay and the RUF to disarm the child soldiers, then

<sup>1215</sup> TF1-388, TT, 10 July 2008, pp. 13522, 13532; [REDACTED].

<sup>1216</sup> DCT-146, TT, 13 April 2010, pp. 38783-84; Exh. P-604A, para. 4.

<sup>1217</sup> TF1-375, TT, 24 June 2008, 12656-58: "After the release of the peacekeeping forces, after they had been released, I saw a one barrel BZT that they crossed over with to Liberia and it was used in the President's convoy called mobile 5, one barreled BZT. It was the ATU that were using it in the President's convoy called mobile 5 and some mortars and some other heavy weapons (...) They crossed with the mortars from Mende Buima to Vahun and they handed them over to Benjamin Yeaten for him to use it at the front line. Benjamin Yeaten requested for the weapons from Issa Sesay in my presence in Vahun. He said he needed some mortars to use against LURD. So he said he should please help him with the weapons and he did. I saw the weapons with my eyes"; TF1-516, TT, 9 April 2008, pp. 7103-04.

<sup>1218</sup> TF1-567, TT, 7 July 2008, p. 13038; See also DCT-172, 26 July 2010, pp. 44556-67.

told Sesay he should not disarm to the UN at all. Taylor said the UN would talk nicely to “you” and then arrest you. When Sesay returned to Sierra Leone he said he did not think he would continue to take instruction from Taylor; that Taylor was living in peace and in power. However, thereafter Sesay obeyed Taylor’s instruction to use materiel Taylor had supplied Sesay to attack Guinea. Sesay used Superman and Morris Kallon to attack areas in Guinea. Sesay did however begin to organize child soldiers to disarm. Some of the arms and ammunition were turned in, but Yeaten then told Sesay that the weapons and the remaining rounds were to be sent back to Liberia. Taylor said they were his, Taylor’s, weapons, he was the one who supplied them to Issa, so Issa should not surrender them to the UN. Taylor indicated that Sesay should return the materiel to Yeaten in Vahun. Sesay complied with that instruction and returned materiel, including heavy weapons.<sup>1219</sup>

### **III. D. OTHER BENEFITS**

#### Used Buedu as base from which to send his joint AFRC/RUF/Liberian forces against LURD

400. Taylor not only used the AFRC/RUF as his personal armed force, he also used AFRC/RUF controlled territory as his own. As noted above, control over Foya changed hands during the joint AFRC/RUF/Liberian forces operations against LURD. At one point Superman was wounded in this fighting and the AFRC/RUF retreated to Buedu with Taylor’s Liberian forces that had been fighting alongside them. When they reached Buedu, Yeaten called Superman to come to Vahun for onward travel to Monrovia to receive medical treatment for his wounds. From Vahun, Superman ordered that his weapons, artillery, 50 calibre and vehicle mounted weapons be taken to Vahun. Thereafter, the joint AFRC/RUF, Liberian forces based in Buedu launched attacks against Foya in attempts to regain control of that vital location. At this time, Roland Duoh aka Amphibian Father, came with his troops to Buedu. He based in Buedu but went into Liberia every day. Roland Duoh said that the President sent him to ensure Foya was recaptured. At one point ammunition for these joint attacks was stored in Buedu. Yeaten was in overall command of these combined forces in Buedu.<sup>1220</sup>

<sup>1219</sup> TF1-338, TT, 2 September 2008, p. 15173-78, 15188-92.

<sup>1220</sup> TF1-516, TT, 9 April 2008, pp. 7082-89.

## IV. TAYLOR'S *MENS REA*

### INTRODUCTION

401. Charles Taylor knowingly and wilfully unleashed a campaign of terror on the people of Sierra Leone. Taylor understood that the Indictment Crimes were going to occur in this terror campaign when he made his contributions to the crimes outlined in Section II above, but nevertheless, he continued with his substantial contributions. Long before the beginning of the Indictment Period,<sup>1221</sup> Taylor's surrogate RUF army had earned notoriety for its terror tactics and the atrocities committed by the RUF were well-known to Taylor. The evidence shows that the RUF's terror tactics were infamous, particularly during the violent early 1996 Stop Elections campaign. Further, even in the first months of the invasion in 1991, crimes against civilians in Sierra Leone by the invading forces were brought to Taylor's attention, whose reaction was to advise others to "get used to it," "guerrilla war ... is destruction... You are not eating bread and butter, you are fighting."<sup>1222</sup> The evidence proves both Taylor's intent that the Indictment Crimes be inflicted on the people of Sierra Leone and his knowledge that these crimes were occurring or likely to occur. To the extent Taylor did not initially intend the commission of some of these crimes, over time, his awareness that the crimes were a reasonably foreseeable consequence of the intended crimes transformed his *mens rea* into direct intent.<sup>1223</sup>

### IV.A. TAYLOR INTENDED THE CRIMES

402. Taylor intended that the RUF and later the AFRC/RUF conduct the campaign of terror in Sierra Leone. [REDACTED]

[REDACTED]  
[REDACTED]<sup>1224</sup>

403. Taylor used terrorist threats against civilians to create the RUF, so it was no surprise that the organization adopted the same tactics in dealing with the civilian population of Sierra Leone. The evidence shows that most of the Sierra Leonean Vanguardians who

<sup>1221</sup> See Section I.K regarding relevance of evidence from outside the Indictment and/or jurisdiction.

<sup>1222</sup> Accused, TT, 23 November 2009, p. 32304; TF1-561, TT, 14 May 2008, p. 9862. See also Accused, 3 November 2009, pp. 31044-45, in which this passage of Blah's testimony was read to Taylor and he did not dispute making such a statement, only disagreeing with the date.

<sup>1223</sup> See *Krajišnik* Appeal Judgement, para. 162.

<sup>1224</sup> [REDACTED]

trained at Taylor's Camp Naama had been arrested by Taylor's NPFL and threatened with death if they did not join the RUF.<sup>1225</sup> These arrests were part of Taylor's policy at the time of retaliating against civilian nationals from countries contributing to ECOMOG because ECOMOG's intervention in Liberia had prevented his military conquest of the country. Having been conceived through terrorism, it was inexorable that the RUF leaders continuously utilized terror tactics in its decade-long war in Sierra Leone.

404. Moreover, the RUF was trained by NPFL and ex-NPFL commanders. The NPFL spearheaded the original invasion of Sierra Leone and the evidence discussed below is uncontested, that these NPFL forces carried out horrendous atrocities against the civilian population in these first years of the war, killing and raping civilians and even engaging in acts of cannibalism.<sup>1226</sup> When Foday Sankoh first arrived in Koindu, he cried at the sight of destruction and bodies littering the area.<sup>1227</sup> Taylor was not happy with Sankoh's complaints and said "When you talk about a guerilla war it is destruction and this type of thing must happen if you are fighting a war."<sup>1228</sup>
405. The evidence shows the terror tactics utilized by the RUF and NPFL forces in Sierra Leone had been used by Taylor before in Liberia. Liberia laid the groundwork for the perpetration of the Indictment Crimes in Sierra Leone.<sup>1229</sup> Taylor's tactics in Liberia demonstrate his willingness to employ terror to achieve his aims and from this evidence his intent to commit the Indictment Crimes can be inferred.<sup>1230</sup>

<sup>1225</sup> Sam Kolleh was captured by an NPFL fighter and taken to Naama where he was forcibly trained to go and fight in Sierra Leone - Kolleh confirmed he was RUF (DCT-102, TTs, 1 November 2010, pp. 48367-69; 3 November 2010, p. 48628). Issa Sesay was forcibly recruited into the RUF and trained at Naama (DCT-172, TTs, 5 July 2010, pp. 43595-97; 16 August 2010, p. 46391). Morris Kallon was an "involuntary vanguard" (DCT-172, TT, 16 August 2010, pp. 46391-95 & Exh. P-565).

<sup>1226</sup> E.g., [REDACTED]; DCT-172, TT, 12 August 2010, p. 46193; DCT-306, TT, 13 April 2010, p. 38899; 38900, 39345, 39499.

<sup>1227</sup> DCT-215, TT, 30 March 2010, p. 38307 & TF1-399, TT, 12 March pp. 5868-5869. When Marzah reported to Taylor that Sankoh was crying about the death and destruction he had seen, Taylor responded "he will get used to it" (12 March 2008, p. 5869).

<sup>1228</sup> TF1-561, TT, 14 May 2008, p. 9862. Taylor admits Sankoh made such complaints (Accused, TTs, 23 September 2009, p. 29514, 26 October 2009, p. 30252).

<sup>1229</sup> TF1-588, TT, 23 September 2008, p. 16964: "[T]error was the common denominator between Liberia and Sierra Leone"; TF1-399, TTs, 12 March 2008, pp. 5901, 5953 & 14 March 2008, p. 6125: no difference between criminal practices of RUF and NPFL; given Taylor's orders, expected the crimes committed in Liberia to occur in Sierra Leone.

<sup>1230</sup> See Section I.K.

406. Taylor's intent manifests from the fact that he was commander of a force filled with fighters seeking revenge and whose primary *modus operandi* was terror.<sup>1231</sup> Taylor as a master manipulator<sup>1232</sup> harnessed his fighters' thirst for revenge in waging the conflict in Liberia.<sup>1233</sup> Taylor also admitted that he "knew that many members of [his] group of fighters were likely to commit crimes" as a result of their need for revenge.<sup>1234</sup>
407. Taylor's campaign of terror against the civilian population of Liberia was waged in order to forcibly gain control over the Liberian population and territory and to exploit its resources.<sup>1235</sup> Indeed, the crimes committed by the NPFL during the early years of the Liberian conflict bear all the hallmarks of the crimes later committed by the RUF and its allies, including Taylor's subordinates sent to Sierra Leone, throughout the Sierra Leonean conflict. These crimes in Liberia perpetrated by fighters with mottos such as "maximum death and destruction"<sup>1236</sup> included: enslavement; training and using child soldiers; use of human skulls and other body parts at checkpoints to create terror and fear; killing of civilians; treating civilians with extreme brutality; rape; burning and looting on a massive scale by the unpaid troops.<sup>1237</sup>

<sup>1231</sup> e.g. Exh. D-118, p. 2; Accused, TT, 19 November 2009, pp. 32242-51.

<sup>1232</sup> Taylor's calculating nature is reflected in virtually every action he has taken. For example, Taylor chose as his first wife, the "sister" (a woman from the same ethnic group or tribe) of General Quiwonkpa, a popular Gio from Nimba County and one of the leaders of the Doe coup. When telling the court about this marriage, Taylor stated: "And that was another move on my part. There is a so-called Congo man again that is marrying a country woman or an aborigine. That again was very, very pleasing to a lot of them" (TT, 15 July 2009, p. 24484).

<sup>1233</sup> Taylor admits he deliberately opened his attack on Liberia in Nimba County because he knew the inhabitants there wanted revenge and so would join his force to exact such revenge (Accused, TT, 19 November 2009, pp. 32242-51).

<sup>1234</sup> Accused, TT, 19 November 2009, pp. 32243-44.

<sup>1235</sup> Exh. P-31, p. 00026609, para. 2 detailing the wealth accumulated by Taylor including some from commodities; Accused, TT, 2 December 2009, p. 32862: Taylor admits he received revenue from timber and rubber.

<sup>1236</sup> TF1-548, TT, 11 February 2008, pp. 3358-60.

<sup>1237</sup> See following examples of crimes committed by NPFL forces: Exh. P-31, p. 00026618-19: "cruel, inhuman or degrading practices perpetrated by the RUF ... have more obvious precedents in Liberia" in particular the use of child soldiers, rape, forced labour;

Exh. D-118, p. 2: "Taylor's troops ... vented their spleen on ... civilians in a grotesque campaign of human destruction," "pregnant women had their stomachs slit open" & p. 3 "Taylor now has about 12,000 men, women, boys and girls in uniform (his regular army) ..."; Exh. D-129, p. 6, paras. 6.2 & 7.1: killings, wanton destruction of property; TF1-588, TT, 23 September 2008, p. 16963: eyewitness account of killing of unarmed, elderly civilian man by the NPFL; Exh. P-126, pp. 1-2: burning, raping, and killing by NPFL; TF1-399, TTs, 12 March 2008, pp. 5919-22 & 14 March 2008, pp. 6145-47: massacre of 600 civilians at Camp Carter by the NPFL, massacre at Dupo Road. The following witnesses testified about the display of body parts at NPFL checkpoints: TF1-399, TT, 12 March 2008, p. 5863; TF1-367, TT, 20 August 2008, pp. 14081, 14083-84; TF1-532, TT, 31 March 2008, p. 6226. Section IX.

408. Taylor's testimony that the abuse of Liberian civilians by NPFL troops amounted to "one or two notable cases" which were "dealt with" and there were no child soldiers<sup>1238</sup> is striking to the point of incredible in its casual dismissal of the weight of contrary evidence emanating from eyewitnesses, experts and documents from independent sources.<sup>1239</sup> The reality of what was happening on the ground was clearly described by the journalist, Stephen Smith. While covering the Liberian conflict in the early 1990s, he watched as unarmed civilians were shot dead in front of him by NPFL fighters and was also subjected himself to a mock execution by the side of the road by Taylor's bodyguards after an angry encounter with Taylor.<sup>1240</sup> The reality was also clear to the international community as it *repeatedly* condemned the "gross violation of the human rights of Liberians" to the point where in 1996 the possibility of a war crimes tribunal "to try the leadership of the Liberian warring factions" was threatened as a possibility.<sup>1241</sup>
409. Taylor embraced the terror tactics used by the NPFL such as the display of human skulls at checkpoints.<sup>1242</sup> In his testimony Taylor admitted that he saw these checkpoints but did not remove them as he understood their power: "if someone saw a skull ... it could instil fear."<sup>1243</sup> This fear, triggered in this case by "symbols of death," allowed him to send a message: "If you do wrong, this is the result...symbols are designed to give a lesson that, 'Look, here is the situation. If you don't do this then this happens, okay? This is the result of not following orders, okay?'"<sup>1244</sup>
410. Taylor did not cease his use of terror and abuse of civilians in Liberia on assuming the Presidency. Rather he tried to hide his crimes and improve his image by spending millions of US dollars on lobbying and PR agencies.<sup>1245</sup> But terror was still integral to his strategy and was the means by which he maintained power.<sup>1246</sup> Taylor's reliance on

<sup>1238</sup> Accused, TT, 16 July 2009, pp. 24697-99.

<sup>1239</sup> See footnote above listing NPFL crimes and TF1-588, TTs, 22 September 2008, pp. 16794-89; 23 September 2008, p. 16963; & Exh. P-446, admitted for impeachment only.

<sup>1240</sup> TF1-588, TTs, 22 September 2008, pp. 16794-89; 23 September 2008, p. 16963.

<sup>1241</sup> Exh. D-385, p. 97, para. 12. See also the condemnation of crimes and atrocities and the warning to factions to desist from such acts which are offensive to the international community set out in paras. 27 & 28 of the ECOWAS Communiqué of 17 August 1996 (pp. 115-116) and sanction 10 imposed on 17 August 1996 (p. 117).

<sup>1242</sup> Accused, TT, 16 July 2009, p. 24622. See also TF1-399, 12 March 2008, p. 5900.

<sup>1243</sup> Accused, TT, 16 July 2009, p. 24624.

<sup>1244</sup> Accused, TT, 16 July 2009, pp. 24622, 24624.

<sup>1245</sup> Accused, TT, 4 February 2010, pp. 34550-58.

<sup>1246</sup> This section highlights the killing of Dokie, Yormie and Vaye. However, the record contains numerous other examples of the killing of civilians by Taylor's subordinates during his Presidency such as: the massacre of civilians by Yeaten in Kammantahun near Kolahun at the time of the LURD invasion which Taylor was



terror with its consequent horrors explains why Benjamin Yeaten had such a high place in Taylor's regard. Yeaten was a skilled, vicious subordinate who was completely loyal to Taylor, carrying out all Taylor's directives without a second thought.

411. The killing of Samuel Dokie and his family is an infamous example of Taylor's use of terror via Yeaten in Liberia even after assuming the Presidency. The killing occurred after Dokie and his family were arrested on the orders of the SSS director, Benjamin Yeaten.<sup>1247</sup> The evidence indicates that Yeaten ensured the Dokie's were executed.<sup>1248</sup> It is apparent Yeaten was acting pursuant to Taylor's orders since he was neither arrested nor punished for his involvement.<sup>1249</sup> Yeaten also executed John Yormie and Isaac Vaye, a fact which Taylor admits Yeaten confessed to him.<sup>1250</sup> Yet Taylor did not have Yeaten arrested or investigated,<sup>1251</sup> the only logical conclusion being that no action was taken because Yeaten had executed Taylor's orders.<sup>1252</sup> The fact that all of Yeaten's actions were done with Taylor's approval was apparent when Taylor testified that he would still accept Yeaten back into his government today if he had the chance.<sup>1253</sup>
412. Taylor's treatment of Sierra Leonean civilians seeking refuge in Liberia also evidences his intent to terrorise the civilians of Sierra Leone and, therefore, his *mens rea* for the Indictment Crimes. Witness TF1-590,<sup>1254</sup> a Sierra Leonean refugee who refused to join the AFRC/RUF,<sup>1255</sup> was taken naked, gagged, tied and obviously badly injured before Taylor by Taylor's son, Chucky, in around April 1999.<sup>1256</sup> Taylor threatened TF1-590 with execution and accused the witness and his fellow captives of refusing to fight for their country when they were most needed and of being Kamajors sent to overthrow his

aware of (TF1-399, TT, 12 March 2008, pp. 5922-26); the massacre of civilians in Belle Forest, Lofa County in 2002 by Zigzag Marzah on the orders of Yeaten (TF1-375, TT, 24 June 2008, pp. 12680-81, 12685-86);

and the killing of Sam Bockarie and his family (See Section X.A).

<sup>1247</sup> Accused, TT, 4 February 2010, pp. 34687-89. See also: TF1-579, TT, 26 November 2008, p. 21276; TF1-561, 14 May 2008, pp. 9846-47. TF1-561 mistakenly gives the date of Dokie's execution as 1991. However, it is clear Dokie and his family were killed in 1997 (see Exh. D-141, p. 224).

<sup>1248</sup> TF1-561, TT, 14 May 2008, p. 9846; TF1-399, 13 March, p. 6056.

<sup>1249</sup> Accused, TT, 4 February 2010, pp. 34690-92.

<sup>1250</sup> Accused, TT, 4 February 2010, pp. 34693-94. But also see Accused, TT, 18 February 2010, p. 35386.

<sup>1251</sup> Accused, TT, 4 February 2010, pp. 34694-95.

<sup>1252</sup> Accused, TT, 4 February 2010, p. 34696. The Accused denies the men were executed because they displeased him. However, the contrary evidence is provided by the following witnesses: TF1-579, TT, 26 November 2008, pp. 21275-80; TF1-399, 14 March 2008, p. 6154 & Errata of 4 April 2010; TF1-561, TT, 15 May 2008, pp. 10014, 10018-22.

<sup>1253</sup> Accused, TT, 27 January 2010, p. 34205.

<sup>1254</sup> Note TF1-590's evidence is also discussed in Section II E.

<sup>1255</sup> TF1-590, TTs, 12 June 2008, pp. 11732-35, 13 June 2008, pp. 11748-52, 11766-71.

<sup>1256</sup> TF1-590, TTs, 13 June 2008, pp. 11810, 11813-17; 17 June 2008, p. 11984.

government.<sup>1257</sup> Prior to being taken to Taylor, Chucky's "Demon Forces"<sup>1258</sup> brutally tortured TF1-590 and executed fellow captives while they begged for their lives – one man was beheaded with a knife.<sup>1259</sup> This incident is indicative of Taylor's approval of using terror and forced recruitment against Sierra Leonean civilians. The evidence that Taylor condoned the torture of Sierra Leoneans like TF1-590 within Liberia certainly is evidence of his approval of the same tactics in Sierra Leone.

413. The "pattern, design or systematic course of conduct"<sup>1260</sup> established by Taylor and his subordinates in Liberia was repeated in Sierra Leone and continued throughout the conflict.
414. Taylor's subordinates trained the RUF to use terror as a means of gaining and exercising control over the population and territory of a country and of pillaging its resources. The RUF was taught by the NPFL a form of rebel warfare which actively used the commission of crimes against civilians to achieve its aims.<sup>1261</sup> Both rebel forces were also organised along similar lines, the fighters were unpaid making looting a necessity and comprised units especially for child soldiers.<sup>1262</sup> The shared history and development of the NPFL and the RUF demonstrates that Taylor fully intended that each follow the same *modus operandi* of terror from the outset, an intent which continued into and throughout the Indictment Period.
415. Having developed and trained this unpaid, brutal fighting force, it is clear Taylor intended that the initial invasion and subsequent guerrilla war in Sierra Leone be fought with tactics that would inflict numerous types of atrocities against civilians. The 1991

<sup>1257</sup> TF1-590, TT, 13 June 2008, pp. 11815-17. At pp. 11749-51 TF1-590 described the situation in Vahun, Liberia, in February 1998 where civilians were harassed and arrested by the RUF, AFRC, the SOD and other Liberian security forces. The witness was arrested and taken to the offices of the RUF, AFRC, the SOD, and other police as they were all housed in one building. The reason for the arrest was to return people back to Sierra Leone to fight, the reasonable inference being to fight for the AFRC/RUF. Also Exh. P-78, p. 1: "In the Vahun and Kolahun areas of Lofa County in north western Liberia, where tens of thousands of Sierra Leonean refugees had fled escalating fighting in eastern Sierra Leone, cooperation between rebel forces and the Liberian military was reported to be witnessed regularly."

<sup>1258</sup> TF1-590, TT, 13 June 2008, p. 11759.

<sup>1259</sup> TF1-590, TT, 13 June 2008, pp. 11780-87, 11794-11803, 11810-13. One of the torture locations was Camp Gbatala. Notably, Taylor admits that he heard about "people being killed Gbatala" when he was President and states he investigated (TT, 23 November 2009, p. 32293).

<sup>1260</sup> *Ngeze & Nahimana* Shahabuddeen Opinion, para. 20.

<sup>1261</sup> See Sections II, IX.C and IX.G which describe the similar nature of the terror tactics taught to the RUF and the NPFL.

<sup>1262</sup> See Section IX.G (Count 9) & IX.I (Count 11). SBUs were part of the NPFL, the RUF, and later the AFRC/RUF.

invasion and its aftermath resulted in the commission of atrocities by the NPFL and the RUF against civilians similar to those committed by the NPFL in Liberia.<sup>1263</sup>

416. Thus, from the outset, Taylor's NPFL set the example in Sierra Leone, importing the pattern of terrorizing civilians as the means to achieve the ultimate objective. This early conditioning to the use of terror had consequences throughout the conflict. It was instilled in those who became the leaders of the RUF, and later AFRC/RUF and contributed to the willingness of the perpetrators of the charged crimes to continue with the campaign of terror during the Indictment Period.
417. Indeed, the groundwork laid in the first few years of the Sierra Leonean conflict continued as the conflict matured and the pattern of committing crimes against civilians became routine for the rebel fighters. The deliberate nature of this pattern is underlined by the Sierra Rutile Operation and Operation Stop Elections. The evidence concerning these Operations as discussed Section II of this Brief establishes Taylor's direct involvement. Taylor's advice to use "guerrilla" tactics<sup>1264</sup> and to attack a major place such as Sierra Rutile plus his confirmation that the plan for Operation Stop Elections was "not a bad one" demonstrates that he endorsed the commission of crimes.
418. From Taylor's actions during the Indictment Period his intent to commit the Indictment Crimes can also clearly be inferred. The sheer volume and breadth of the assistance provided by Taylor to the RUF and later the AFRC/RUF during this 6 year period,<sup>1265</sup> establishes a clear intention to further the criminal objectives and means of the Sierra Leonean rebel fighting forces.<sup>1266</sup> In addition to physical assistance, the evidence in Section II.B establishes Taylor's active involvement in planning and directing key operations such as Fitti Fatta, and the multi-axis offensive of late 1998/early 1999.

<sup>1263</sup> See the evidence of pre-Indictment crimes referred to in Section IX (Crime Base). See also the examples provided by [REDACTED]; [REDACTED]; [REDACTED].

[REDACTED] TF1-561, TT, 14 May 2008, p. 9861: "[Sankoh] said, 'The boys from NPFL, whom the chief sent to help me, they got involved into a lot of atrocities, raping women, looting people's property and killing people, and these are the people I have gone to liberate and I am losing respect amongst my tribesmen'; Exh. P-296, p. 21853: 'the violation counts start high in 1991 at the beginning of the war.' TF1-532, TT, 7 April 2008, p. 6785. See also Section IX.C (Count1), regarding the adoption by the RUF of the Liberian slogan 'civilians do not have blood.' Taylor admitted that crimes were committed by NPFL in his testimony (Accused, TT, 20 July 2009, p. 24841).

<sup>1264</sup> Accused, TT, 29 September 2009, p. 29751: Taylor admitted regarding guerrilla activities across the world, he had read quite a bit. In redirect, Taylor also confirmed his experience and expertise in dealing with revolutionary activities, in dealing with guerrilla warfare (Accused, TT, 18 February 2010, p. 35443).

<sup>1265</sup> The evidence establishes that Taylor's involvement in the conflict spans a period considerably longer than the Indictment Period.

<sup>1266</sup> The RUF Appeal Judgement, para. 1035 cited at identifying that the "character, quality and quantity of the accused's joint action" may be relevant to establishing intent is recalled.

Indeed, Taylor's direction to Bockarie that in order to save ammunition he was to make the late 1998/early 1999 multi-axis "operation [more] fearful than all the other operations ... undertaken because we want to make sure that we take Freetown and hold on to power" is revealing in its acknowledgement of a pattern of previously "fearful" operations and its clear direction as to the level of atrocity which should be achieved on this occasion.<sup>1267</sup>

419. Taylor also purposefully used trusted subordinates in Sierra Leone who had reputations for ruthlessness and extreme brutality,<sup>1268</sup> such as Zigzag Marzah,<sup>1269</sup> Sam Bockarie,<sup>1270</sup> Benjamin Yeaten<sup>1271</sup> and Issa Sesay.<sup>1272</sup> It can be inferred that Taylor intended the commission of the Indictment Crimes by deliberately deploying, promoting and/or supporting individuals who clearly perpetrated crimes against civilians.<sup>1273</sup> Indeed, despite Bockarie's infamy when he left Sierra Leone in December 1999,<sup>1274</sup> in late 2000

<sup>1267</sup> TF1-532, TT, 11 March 2008, p. 5796-97.

<sup>1268</sup> These trusted subordinates also followed his orders without question. See TF1-399, TT, 12 March 2008, p. 5974: "I was a servant to my chief Charles Taylor ... Nobody under Charles Taylor used to do things on his own."

<sup>1269</sup> TF1-375, TT, 24 June 2008, pp. 12679-80, 12686: Zigzag Marzah was the Death Squad Commander for Charles Taylor; "wherever he went, one or two persons must be killed"; TF1-539, TT, 10 June 2008, pp. 11411-14, 11420-21 & Exh. P-137: Marzah told the witness that he was the Death Squad commander, would investigate the witness to see if he was a spy and, if he was, would kill the witness in an ugly manner – a picture of a mutilated body was given to the witness to underline the point; TF1-532, TT, 11 March 2008, p. 5711: "people used to be afraid of him because he used to undertake some killings that made him fearful"; DCT-224, TT, 3 June 2010, pp. 42091-93: confirmed Zigzag was Yeaten's bodyguard, was "not correct in his head" and caused marketeers to run scared to the witness when they saw him with a gun.

<sup>1270</sup> DCT-172, TT, 13 August 2010, p. 46218: Q. Mr Sesay, Sam Bockarie was proud of being feared? A. Yes. He used to feel powerful of himself. Q. And he wanted people to know how violent he could be, isn't that true? A. Yes. That is true; DCT-146, TT, 12 April 2010, p. 38660: Sam Bockarie "was a wicked commander"; DCT-306, TT, 13 April 2010, pp. 38884-88: witness described Bockarie as "the evil of my life" and a devil. See also the series of threats issued by Bockarie in late 1998: Exh. P-431; Exh. P-430B, para. 1 (note that the following Defence witnesses all confirm Bockarie made this threat - DCT-146, TT, 12 April 2010, pp. 38659-60; DCT-292, TT, 2 June 2010, pp. 41984-85; and DCT-172, TT, 13 August 2010, pp. 46218-19); Exh. P-430D;

<sup>1271</sup> See for example paras. 410 & 411 above.

<sup>1272</sup> See for example

; DCT-299, TT, 23 June 2010, pp. 43243-44; ; TF1-367, TT, 21 August 2008, pp. 14298-301; TF1-568, TT, 16 September 2008, pp. 16296-97; DCT-306, TT, 13 April 2010, p. 38893; DCT-292, TT, 2 June 2010, pp. 41989-90.

<sup>1273</sup> Indeed, as discussed elsewhere in the Brief, Taylor sent subordinates as fighters who were involved in the commission of the Indictment Crimes. See Section II above.

<sup>1274</sup> Taylor himself states that "[a]fter the January invasion of 1999, I became incensed by what was going on in Sierra Leone on activities of the RUF. That's when it really, really dawned on me that there was a serious problem in Sierra Leone" (Accused, TT, 25 November 2009, p. 32378).

Taylor suggested to Issa Sesay that the RUF take him back.<sup>1275</sup> Similarly, Taylor told the Court he would take Yeaten back.<sup>1276</sup>

420. The evidence shows that even after Taylor publicly condemned the rebels' "horrendous atrocities"<sup>1277</sup> in July 1998, he increased his support, supplying Sam Bockarie with more ammunition flown in from Burkina Faso to enable the late 1998 offensive culminating in the Freetown Invasion.<sup>1278</sup> As discussed below, the unimaginable cruelty and crimes inflicted upon the people of Freetown received great international notoriety. As discussed above, Taylor's response was to promote Bockarie and send him even more ammunition in March 1999. Through his actions, Charles Taylor has proven that he intended the commission of the Indictment Crimes.

#### **IV.B. TAYLOR WAS AWARE OF THE CRIMES**

421. Taylor admitted being aware of the crimes in Sierra Leone. On the very first day of his testimony, he acknowledged that the "whole world" knew of the atrocities in Sierra Leone.<sup>1279</sup> By the start of the Indictment Period the rebel war Taylor had launched in Sierra Leone had been in existence for over 5 years and had claimed thousands of victims.<sup>1280</sup> In June 1997 the "RUF Speech to the Nation" admits these crimes: "for the past six years or so we have been living in an environment of hatred and divisiveness. We looked at our brothers and killed them in cold blood, we removed our sisters from their hiding places to undo their femininity, we slaughtered our mothers and butchered our fathers. ... But the atrocities ... [t]hey were the result of the rottenness of a system which could not be uprooted except by brutal means."<sup>1281</sup> As the rebel leader of a neighbouring state, Taylor could hardly claim ignorance of what was occurring across his border.<sup>1282</sup>

<sup>1275</sup> DCT-172, TT, 26 July 2010, pp. 44600-05; DCT-292, TT, 3 June 2010, pp. 42052-53; TF1-338, TT, 2 September 2008, pp. 15145-48.

<sup>1276</sup> See para. 411 above.

<sup>1277</sup> Exh. D-141, p. 298.

<sup>1278</sup> See evidence in Section II above regarding arms and ammunition.

<sup>1279</sup> See Overview of the Trial Evidence in Section I above referring to Accused, TT, 14 July 2009, p. 24329.

<sup>1280</sup> Exh. P-296, pp. 21853-60. Throughout this brief (and the evidentiary record) there are numerous references to BBC news reports, newspaper articles and other sources of media all of which reported in detail about the crimes committed in Sierra Leone (e.g. TF1-360, TT, 6 February 2008, pp. 3243-44: reports on atrocities during Freetown invasion; Exh. P-79).

<sup>1281</sup> Exh. P-57.

<sup>1282</sup> Taylor acknowledged that during the early years of the conflict he had sent his own troops into Sierra Leone and had withdrawn them after complaints about their brutal crimes (Accused, TT, 20 July 2009, p. 24839).

422. In relation to the Indictment Period, Taylor admitted that in 1997 there were news reports of “problems” in Sierra Leone.<sup>1283</sup> Following the Intervention, he admitted there were “reports that there were atrocities all over the place” being committed by “all sides.”<sup>1284</sup> Taylor also agreed in his testimony that by April 1998 “If someone was providing support to the AFRC/RUF ... they would be supporting a group engaged in a campaign of atrocities against the civilian population of Sierra Leone.”<sup>1285</sup> Thus, by his own admission, Taylor was on notice of the terror campaign in Sierra Leone by April 1998, although the evidence shows his support for the rebels continued and even increased.<sup>1286</sup>
423. By May 1998, Taylor confirmed there were news reports of a “horrific campaign being waged against the civilian population in Sierra Leone.”<sup>1287</sup> Taylor agreed that in August 1998 the crimes were notorious.<sup>1288</sup> Then, after the January 1999 invasion he explained “it really, really dawned on [him] that there was a serious problem in Sierra Leone.”<sup>1289</sup> Indeed, Taylor acknowledged that in his November 2000 interview with the journalist, Stephen Smith, he knew the import of the crimes committed by the RUF and said: “The RUF committed terrible atrocities. People will have to answer for that.”<sup>1290</sup>
424. However, when placed in the context of the evidentiary record as a whole, it is clear that Taylor’s knowledge of the situation in Sierra Leone before, during and after the Indictment Period was far more detailed and extensive than he was willing to admit in Court.
425. First, the evidence establishes that Taylor was a well-informed leader, a man who understood the power of the press. Taylor testified he watched CNN regularly and listened to the BBC.<sup>1291</sup> Stephen Smith interacted directly with Taylor in his professional capacity as a journalist. Smith observed that in the early 1990s, Taylor was always knowledgeable about media reports concerning Liberia and neighbouring

<sup>1283</sup> Accused, TT, 25 November 2009, p. 32378.

<sup>1284</sup> Accused, TT, 25 November 2009, pp. 32378-79.

<sup>1285</sup> Accused, TT, 25 November 2009, p. 32395.

<sup>1286</sup> The evidence also shows Taylor was aware of the terror campaign in Sierra Leone far earlier than April 1998. See following paragraphs.

<sup>1287</sup> Accused, TT, 8 September 2009, p. 28274.

<sup>1288</sup> Accused, TT, 25 November 2009, p. 32439.

<sup>1289</sup> Accused, TT, 25 November 2009, p. 32378.

<sup>1290</sup> Accused, TT, 26 November 2009, p. 32649 & Exh. P-33B.

<sup>1291</sup> Accused, TTs, 8 September 2009, pp. 28265-28266, 3 November 2009, p. 31053 & 14 January 2010, p. 33429.

countries: “he must have followed closely about what was reported ... obviously information that was vital to his endeavour.”<sup>1292</sup> When he became President, Taylor received a daily briefing from his national security advisor which included a summary of intelligence and media reports and his press secretary monitored radio and television to gather information.<sup>1293</sup>

426. Secondly, Taylor had his own direct source of information. As the evidence establishes, there was no lull in communications between the RUF and the NPFL after 1992.<sup>1294</sup> [REDACTED]

[REDACTED].<sup>1295</sup>

427. Thirdly, it is clear from the evidence that Taylor would have been aware of two significant events in the pre-Indictment Period which would have put him on notice of the RUF’s terror tactics. The 1995 Sierra Rutile Operation and the 1996 Operation Stop Election received considerable international attention and made the RUF infamous. Clearly, Taylor would have been aware of both operations.<sup>1296</sup> One of the purposes of the 1995 Operation was to raise concern in the international community by capturing some of the Sierra Rutile mining company’s white employees. Seven employees were captured and the Red Cross was involved in their release.<sup>1297</sup> Further, the 1996 amputation campaign, the pre-cursor to the charges laid in Counts 7 and 8, would also have ensured that the conflict in Sierra Leone was firmly on the international agenda and could not have escaped the notice of Taylor.<sup>1298</sup> In relation to the early part of the Indictment Period, it is evident that Taylor would have been aware of the events surrounding the May 1997 Coup and its aftermath. Once in power, the Junta’s brutal rule – “marked by a total disregard for the rule of law” and human rights abuses - was

<sup>1292</sup> TF1-588, TT, 23 September 2008, pp. 16966-68.

<sup>1293</sup> Accused, TTs, 14 July 2009, p. 24333; 8 September 2009, pp. 28266-67; 16 November 2009, p. 31713.

<sup>1294</sup> e.g. TF1-360, TT, 4 February 2008, pp. 3051-3052; TF1-567, TT, 2 July 2008, p. 12869-12870; TF1-045, TT, 12 November 2008, pp. 20109-20110; TF1-567, TT, 2 July 2008, p. 12869-12870; TF1-360, TT, 4 February 2008, p. 3054-3055. See also evidence in Section II.F above.

<sup>1295</sup> [REDACTED]

See also evidence in Section II.F above.

<sup>1296</sup> Note, the Prosecution’s primary position is that Taylor *intended* both these operations.

<sup>1297</sup> TF1-045, TT, 12 November 2008, pp. 20096-20100; TF1-360, TT, 4 February 2008, pp. 3053-56.

<sup>1298</sup> See observations of Smith (TF1-588) above & Exh. P-296, p. 21858: first substantial rise in documented amputations was in late 1995/early 1996 during “Operation Stop Elections” making increase in press coverage likely.

widely reported.<sup>1299</sup> Therefore, well before the start of the Indictment Period and continuing thereafter, Taylor was on notice via multiple sources of the RUF's tactics of targeting civilians.

428. [REDACTED]  
[REDACTED],<sup>1300</sup> a practice he had deployed with his own NPFL.<sup>1301</sup> This reporting function was one of their main roles and ensured that Taylor was kept informed of the activities of the RUF and later the AFRC/RUF via first hand reports from trusted sources.

429. Fifthly, on becoming President of Liberia in August 1997, Taylor via Liberia's membership of ECOWAS,<sup>1302</sup> especially if he was the "point guard"<sup>1303</sup> or "point president for peace,"<sup>1304</sup> would have immediately become privy to the "considerable attention and effort" being devoted by ECOWAS to resolving the political crisis in Sierra Leone.<sup>1305</sup> For example, at the end of August 1997, ECOWAS mandated ECOMOG to monitor the ceasefire, enforce sanctions and the embargo and secure the peace in Sierra Leone.<sup>1306</sup> ECOWAS also extended the mandate of ECOMOG troops in Liberia to Sierra Leone at this time.<sup>1307</sup> From the outset of Taylor's Presidency and thereafter, ECOWAS was heavily involved in the Sierra Leone crisis and it can reasonably be inferred that Taylor would have been fully and properly briefed. Taylor admitted to reading the ECOWAS reports provided to him as Head of State which included details of the atrocities committed by the RUF.<sup>1308</sup>

<sup>1299</sup> TF1-588, TT, 23 September 2008, pp. 16971-72; Exh. P-78, p. 8; Exh. P-297. In October 1997, Amnesty published a report which documented human rights violations committed by the AFRC and RUF after the coup (Exh. P-78, p. 8).

<sup>1300</sup> See Section II for further details. [REDACTED]

<sup>1301</sup> Accused, TTs, 16 July 2009, p. 24593, pp. 24691-93 & 20 July 2009, pp. 24759. From the beginning of Taylor's plan for the initial attack on Liberia, his Special Forces were posted all over as "*the eyes and ears of the revolution*."

<sup>1302</sup> Liberia has been a member of the Economic Organisation of West African States (ECOWAS) since 1975 (see Agreed Fact 6).

<sup>1303</sup> Accused, TT, 11 August 2009, p. 26434.

<sup>1304</sup> Accused, TTs, 5 August 2009, p. 26045 (Liberia is the point country for Sierra Leone); 25 November 2009, p. 32391 (appointed point President in late 1997).

<sup>1305</sup> Exh. P-78, p. 1. Also p. 7: "ECOWAS and ECOMOG have played a dominant role in political developments in Sierra Leone since the military coup ...."

<sup>1306</sup> Judicially Noticed Fact AC

<sup>1307</sup> Judicially Noticed Fact Z.

<sup>1308</sup> Accused, TT, 25 November 2009, p. 32388. Also D-141, p. 298, para. 3, provides an example of the information provided via ECOWAS.



430. In addition, Taylor's government received information from the UN and its agencies. Indeed, shortly after Taylor became President, the UN Security Council determined that the situation in Sierra Leone constituted a threat to international peace and security in the region.<sup>1309</sup> Thereafter, UN resolutions and reports from the Secretary-General were consistent in their unequivocal condemnation of the atrocities being committed by the AFRC/RUF Junta and/or alliance.<sup>1310</sup>
431. Taylor's claims of limited knowledge are belied by his own actions. Defence exhibit D-189 is an extensive list prepared by Taylor's government of some of the actions taken "to dispel allegations regarding Liberia's support for the RUF/Junta."<sup>1311</sup> While the document starts in May 1998, Taylor testified that the allegations about Liberia's involvement in Sierra Leone started just after the Intervention in February 1998. Taylor testified that he was letter writing, organising meetings, involved in visits, making telephone calls, and involved in intensive diplomatic activity, all of which focused solely on Sierra Leone.<sup>1312</sup> D-189 ends in February 1999 but other evidence on the record demonstrates that Taylor was involved in responding to these and similar allegations for several more years.<sup>1313</sup> Moreover, in testimony Taylor claimed that D-189 does not include the "hundreds of calls" between himself and President Kabbah not listed in the document.<sup>1314</sup> In this context, it is reasonable to assume that Taylor was aware of the rebel atrocities that made the UN and ECOWAS efforts so urgent.
432. Finally, on 2 July 1998, Taylor issued a joint communiqué along with the Chairman of ECOWAS and the President of Sierra Leone following their meeting in Abuja at the initiative of Kofi Annan, the UN Secretary General. The communiqué states in that the Heads of State of Liberia and Sierra Leone reached agreement "that they strongly condemned the continued rebel activities in Sierra Leone as well as *the horrendous atrocities* that had been committed there."<sup>1315</sup> This statement proves Taylor's

<sup>1309</sup> Exh. P-69, p. 2.

<sup>1310</sup> e.g. Exh. P-69, p. 2; Exh. P-70; Exh. P-80; Exh. P-130, para. 81.

<sup>1311</sup> Accused, TT, 11 August 2009, p. 26421.

<sup>1312</sup> See also Exh. D-141, p. 298 & related testimony of Accused at TT, 3 August 2009, pp. 25799-804. Note in particular the Accused's testimony regarding his meeting of 1 July 1998 with President Kabbah where both strongly condemned the continuing rebel activities in Sierra Leone, as well as the horrendous atrocities that had been committed there (Accused, TT, 18 January 2010, p. 33405).

<sup>1313</sup> Exh. P-23 & Exh. P-24. See also testimony of TF1-561, TT, 15 May 2008, pp. 9962-67 regarding the trip he made to Sierra Leone while Vice-President of Liberia in order to refute the accusations which "were so large that people would talk about it all over the place" that Liberia was involved in the Sierra Leonean conflict.

<sup>1314</sup> Accused, TT, 11 August 2009, p. 26425.

<sup>1315</sup> Exh. D-141, p. 298, para. 3 (emphasis added).

awareness of the rebel atrocities but the evidence shows Taylor's support for the rebels only increased. According to Taylor's own testimony, he was meeting with Sam Bockarie in September, October and November 1998, facilitating Bockarie's regional travel in violation of the UN travel ban, and giving Bockarie thousands of dollars in cash.<sup>1316</sup>

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<sup>1316</sup> Accused, TTs, 25 November 2009, p. 32427, 26 November 2009, pp. 32543, 32568, 37572.

## V. EVIDENCE OF AFRC/RUF ALLIANCE

### The May 1997 Coup

433. On 25 May 1997, a group of enlisted SLA soldiers overthrew the elected government of President Tejan Kabbah, installing the military government that they called the Armed Forces Revolutionary Council.<sup>1317</sup> Major Johnny Paul Koroma was named head of the AFRC government. Many senior officers eventually agreed to join the AFRC.<sup>1318</sup>
434. The coup divided the SLA.<sup>1319</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1320</sup>
435. The UN and ECOWAS imposed sanctions against the export of arms, ammunition and petroleum to the rebel regime and imposed travel restrictions on leading members of the rebel Junta.<sup>1321</sup> The Junta sent a mission to Monrovia to seek Taylor's assistance.<sup>1322</sup> Taylor admitted during his testimony to a member of his government meeting with the delegation.<sup>1323</sup>
436. The isolated AFRC regime faced bleak prospects for survival given the strength of its opponents, which included the Kamajors and ECOMOG. Both refused to recognize the Junta and fighting broke out almost immediately.<sup>1324</sup> The coup was actively opposed by much of the civilian population of Freetown. Civil servants stopped going to work, and many of those who could afford to do so fled the country. Student protests at Fourah Bay College were met by a violent Junta response - students were raped and others beaten or shot.<sup>1325</sup>

<sup>1317</sup> Judicially Noticed Fact D. See also Exh. D-30.

<sup>1318</sup> TF1-597, TT, 21 May 2008, p. 10439. See also Exh. D-30.

<sup>1319</sup> TF1-597, TT, 21 May 2008, pp. 10438, 10503-04; DCT-146, TT, 23 March 2010, pp. 37881-82. Many officers and enlisted men fled Sierra Leone to other countries while a significant minority remained loyal to the constitutional order and the elected government of Kabbah.

<sup>1320</sup> [REDACTED].

<sup>1321</sup> Exh. P-69.

<sup>1322</sup> [REDACTED]; Accused, TT, 11 August 2009, pp. 26465-66.

<sup>1323</sup> Accused, TT, 28 July 2009, pp. 25439-41.

<sup>1324</sup> TF1-597, TT, 21 May 2008, p. 10439; DCT-172, TT, 6 July 2010, p. 43827; DCT-102, TT, 4 November 2010, p. 48814. ECOMOG troops were captured in fighting at the Mammy Yoko Hotel in Freetown and ECOMOG continued to skirmish with Junta forces in the Western Peninsula.

<sup>1325</sup> TF1-539, TT, 10 June 2008, pp. 11391-92: During the AFRC coup, bodyguards of Supreme Council members whipped students and nurses protesting against the coup. Some of Issa Sesay's bodyguards opened fire, injuring several and killing one nurse.

437. From the beginning, it was clear that the isolated AFRC regime was desperately in need of military allies and a source to replenish its ammunition if it was to have any hope of survival. Soon after the coup, JPK contacted Foday Sankoh, who agreed to join the AFRC.<sup>1326</sup> The combined AFRC and RUF was sometimes referred to as the People's Army.<sup>1327</sup>
438. The alliance with the RUF was critical to the AFRC for two reasons. First, in order to continue to fight the Kamajors and ECOMOG, the AFRC needed ammunition and a way to evade international sanctions. As ECOMOG air and naval forces controlled the coastline and Guinea was aligned with ECOMOG, Liberia was the only viable geographic option, but most importantly it was a favourable option for support for another reason – the RUF's connection to Taylor. By this point in 1997, the new AFRC regime leaders, from years of fighting the RUF as an enemy,<sup>1328</sup> were well aware of the RUF's historic connection to Taylor, including his own success at evading sanctions as leader of the NPFL. Secondly, the AFRC needed the manpower of the RUF to fight the Kamajors and ECOMOG.<sup>1329</sup>
439. For the RUF, the alliance with the AFRC offered a way to realize its goal of achieving power. The coup came at a delicate time in Liberia's politics. After years of fighting, Taylor now controlled most of the territory and resources of Liberia. He reached an accommodation with ECOMOG that led to a ceasefire and plans for elections. It was important for Taylor that the election process and withdrawal of ECOMOG forces from Liberia proceed without interruption. Taylor adopted a duplicitous policy of publicly condemning the coup and supporting ECOWAS calls for the reinstatement of the Kabbah government while covertly supporting the Junta. Taylor's support involved encouraging the AFRC/RUF alliance and assisting the Junta to obtain arms and ammunition both directly from Liberia and arranging the Magburaka shipment of arms and ammunition from Burkina Faso in October 1997.<sup>1330</sup>

<sup>1326</sup> TF1-597, TT, 21 May 2008, pp. 10440-41.

<sup>1327</sup> TF1-276, TT, 23 January 2008, p. 1972; TF1-334, TT, 17 April 2008, p. 7873.

<sup>1328</sup> AFRC Adjudicated Fact No. 1, para. 169.

<sup>1329</sup> TF1-597, TT, 22 May 2008, pp. 10512-13.

<sup>1330</sup> See also Section II.C.

## V. A. ALLIANCE DURING JUNTA

### Members of the AFRC/RUF Government

440. During the Junta period, the alliance between the RUF and AFRC functioned effectively.<sup>1331</sup> The RUF held several positions in the government, and RUF commanders were part of the top decision-making body, i.e. the “Supreme Council.”

441. [REDACTED]  
[REDACTED].<sup>1332</sup> Originally, two of the RUF’s top military commanders participated in these meetings, Isaac Mongor and Dennis Mingo aka Superman, but subsequently, in an apparent effort to hide the RUF’s roots in Taylor’s Liberia, Sankoh sent a message that Liberians should not be put in public positions.<sup>1333</sup>

442. The organizational structure of the Junta government is set out in Exhibit P-59.<sup>1334</sup> The first vice chair was Sankoh (during whose absence Bockarie was treated as interim leader for the RUF though he was the field commander) and the second vice chair was SAJ Musa.<sup>1335</sup>

### Military Structure

443. The military command structure is set out in Exhibit P-60. The AFRC and RUF did not have a combined military structure at that point.<sup>1336</sup>

444. The focal point of interaction was between the high command of the Junta (JPK and SAJ Musa) and the high command of the RUF (Bockarie and his immediate deputies, Issa Sesay and Morris Kallon).<sup>1337</sup>

<sup>1331</sup> TF1-360, TT, 5 February 2008, p. 3093; TF1-275, TT, 21 February 2008, pp. 4496-97; TF1-274, TT, 2 December 2008, pp. 21427-30; TF1-584, TT, 18 June 2008, pp. 12139-40; TF1-568, TT, 16 September 2008, p. 16292. Upon the AFRC/RUF alliance, the radio communications structures of both forces operated in a “side-by-side” and cordial fashion. RUF operators became familiar with the SLAs’ use of Morse Code not previously used within their radio network. Regular communications between the RUF and SLAs included what was happening on the front lines, troop movements, logistics and mining in Tongo.

<sup>1332</sup> [REDACTED]  
<sup>1333</sup> DCT-172, TT, 16 August 2010, p. 46407.

<sup>1334</sup> See also Exh. D-30.

<sup>1335</sup> [REDACTED]; TF1-274, TT, 2 December 2008, pp. 21430-31 (referring to late 1997); TF1-334, TT, 17 April 2008, p. 7932; TF1-045, TT, 12 November 2008, pp. 20151-52.

<sup>1336</sup> [REDACTED]; Exh. P-360; DCT-172, TT, 7 July 2010, pp. 43846-

49.  
<sup>1337</sup> [REDACTED]; TF1-360, TT, 5 February 2008, p. 3090; TF1-045, TT, 12 November 2008, pp. 20150-52; Exh. P-58; DCT-172, TT, 7 July 2010, pp. 43852-53.

### Concerted Action

445. After the merger between the RUF and the AFRC, Bockarie briefly went to Freetown and then based in Kenema. Mike Lamin, Issa Sesay, Dennis Mingo, Isaac Mongor and other RUF members based in Freetown.<sup>1338</sup> The relationship between the AFRC and the RUF was cordial.<sup>1339</sup> Joint operations were conducted against the Kamajors in the Bo District.<sup>1340</sup>
446. In January 1998, Bockarie was overall commander of the AFRC/RUF forces in the Kenema axis. He worked closely and was “a very good friend” with Eddie Kanneh - who was appointed by the AFRC government to be Secretary of State for the East.<sup>1341</sup> RUF and AFRC forces conducted joint military operations.<sup>1342</sup>
447. Perhaps the most significant of these operations was Bockarie successfully leading members of both factions to take Tongo diamond field in August 1997.<sup>1343</sup> Tongo Field was then under the joint control of the AFRC and RUF until toward the end of January 1998 just before the Intervention. Although RUF were in the majority, AFRC were present. Mining operations were on-going and the combined AFRC/RUF forces were attacking the Kamajors on the outskirts of Tongo.<sup>1344</sup>

### **V. B. INTERVENTION AND EFFECT ON ALLIANCE**

448. Following the Intervention, the alliance between the AFRC and RUF continued<sup>1345</sup> but the nature of the relationship changed as the alliance lost the capital city and was pushed toward the east of Sierra Leone. The RUF now dominated the alliance. Once the rebel forces had been pushed out of Freetown, the AFRC was weakened for several reasons. First, retreating AFRC forces had left all their heavy weapons in Freetown. Since ECOMOG held Waterloo, the forces retreating had to take small boats from

<sup>1338</sup> TF1-360, TT, 5 February 2008, pp. 3090-91; TF1-388, TT, 9 July 2008, p. 13344; DCT-102, TT, 1 November 2010, pp. 48434-35.

<sup>1339</sup> TF1-539, TT, 10 June 2008, p. 11397; TF1-532, TT, 11 March 2008, p. 5722: “the relationship at that time was nice. We were all working together well and in the town we were all doing things together and we fought together and we used the arms together”; DCT-172, TT, pp. 45955-56. See also TF1-585, TT, 5 September 2008, p. 15602: from Kenema, Bockarie had regular communications with JPK and DCT-172 in Freetown about how to work together.

<sup>1340</sup> TF1-571, TT, 8 May 2008, pp. 9363-64

<sup>1341</sup> [REDACTED]; TF1-516, TT, 9 April 2008, p. 7027; TF1-571, TT, 8 May 2008, p. 9388

<sup>1342</sup> TF1-045, TT, 13 November 2008, p. 20166.

<sup>1343</sup> TF1-571, TT, 8 May 2008, pp. 9367-68.

<sup>1344</sup> TF1-274, TT, 2 December 2008, p. 21421; TF1-539, TT, 10 June 2008, pp. 11393-94; DCT-068, TT, 11 March 2010, pp. 37143-44; DCT-102, TT, 3 November 2010, pp. 48643-44.

<sup>1345</sup> TF1-334, TT, 25 April 2008, pp. 8611-13.

Tombo to Fogbo,<sup>1346</sup> and it was impossible for them to carry anything heavy.<sup>1347</sup> Some of the AFRC officers fled Sierra Leone after the Intervention.

449. Further, the RUF had long experience in “jungle warfare” and once the rebel forces were pushed out of the capital, the RUF faction was dominant with Bockarie in command of both RUF and SLA soldiers.<sup>1348</sup>

Re-organization and concerted action

450. As noted elsewhere in this Brief, shortly after the Intervention, after Koroma consulted with Taylor, they decided to restructure the AFRC/RUF. Sam Bockarie was promoted to Defence Chief of Staff, giving him overall authority over AFRC and RUF forces.<sup>1349</sup> The alliance was restructured so that each AFRC commander was assigned a deputy from the RUF and each RUF commander was assigned a deputy from the AFRC.<sup>1350</sup>

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>1351</sup>

451. In Kabala, SAJ Musa made a speech in the presence of Superman in which he insisted on the need for combined AFRC/RUF forces to go back and recapture Kono, as it served as a strong base, being a diamondiferous area. He added that AFRC and RUF fighters would serve as a “force to be reckoned with” by GoSL and the international community.<sup>1352</sup>
452. In subsequent meetings in Magbonkineh and Makeni, JPK in front of SAJ Musa and Superman reinforced what SAJ Musa had said in Kabala i.e. Kono was a diamondiferous area and the troops should establish a strong Junta base there against ECOMOG attacks.<sup>1353</sup>

<sup>1346</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B), 23 March 2009, Fact No. 5, paras. 175, 176.

<sup>1347</sup> DCT-172, TT, 18 August 2010, p. 46571.

<sup>1348</sup> TF1-539, TT, 10 June 2008, pp. 11397-98.

<sup>1349</sup> TF1-360, TT, 5 February 2008, pp. 3109-10; TF1-571, TT, 8 May 2008, pp. 9392-96; TF1-516, TT, 8 April 2008, pp. 6854-56; TF1-577, TT, 4 June 2009, pp. 11004-05; TF1-585, TT, 5 September 2008, pp. 15617-22; TF1-532, TT, 11 March 2008, pp. 5741-42; [REDACTED]; Exh. P-62; but see TF1-360, TT, 5 February 2008, p. 3111.

<sup>1350</sup> TF1-532, TT, 11 March 2008 pp. 5740-43; DCT-146, TT, 23 March 2010, pp. 37890-91.

<sup>1351</sup> [REDACTED]  
<sup>1352</sup> TF1-334, TT, 17 April 2008, pp. 7938-39.

<sup>1353</sup> TF1-334, TT, 17 April 2008, pp. 7942-43; TF1-597, TT, 21 May 2008, pp. 10494-95; Koroma, while in Magbonkineh, received an order from Taylor to attack Kono.

453. In March 1998, Hassan Papa Bangura aka Bomblast and his SLA fighters joined forces with Superman and his men to recapture Koidu town.<sup>1354</sup> RUF and SLA fighters participated in many operations together in Kono District, including the attack on the bank in Koidu town,<sup>1355</sup> attacks against civilians,<sup>1356</sup> and attacks to spread terror.<sup>1357</sup> There was no difference in the way AFRC and RUF treated civilians at that time.<sup>1358</sup> The two groups held meetings together in Kono to explain the common strategies<sup>1359</sup> and both trained SBUs and captured civilians during the period March to June/July 1998.<sup>1360</sup>

#### Command Structure after AFRC/RUF Recapture of Koidu Town

454. Around this time, Bockarie instructed Issa Sesay to bring JPK to Kailahun as part of the plan for Koroma to travel to Liberia.<sup>1361</sup> Before leaving Koidu Town, JPK held a meeting on Gandorhun Road and put in place a joint force. He said, “anywhere so ever SLA would be a commander the RUF would deputise and anywhere RUF served as commander the SLA would deputise.” JPK told the forces they should hold firm to the cause and he was going to meet Taylor, and then he would return.<sup>1362</sup>
455. This joint force was implemented when JPK arrived in Buedu - a military structure was set up whereby all RUF commanders would have AFRC deputies and vice versa.<sup>1363</sup> The top command was also restructured so that Bockarie was made Chief of Defence Staff for the whole movement and therefore the “highest man” in charge of all the RUF, AFRC, and STF forces.<sup>1364</sup> The restructuring was done at the behest of JPK who had

<sup>1354</sup> TF1-334, TT, 17 April 2008, pp. 7946-47; TF1-597, TT, 21 May 2008, pp. 10494-500; TF1-375, TT, 23 June 2008, p. 12504; Gullit, Bazzy, Adams, and Savage all took orders from Superman for these attacks.

<sup>1355</sup> TF1-334, TT, 18 April 2008, p. 8017; TF1-360, TT, 5 February 2008, pp. 3105-07; [REDACTED]

<sup>1356</sup> TF1-334, TT, 18 April 2008, pp. 7992-94, 8001-03; [REDACTED]

<sup>1357</sup> TF1-334, TTs, 17 April 2008, pp. 7954-55 & 18 April 2008, pp. 7984-85; TF1-375, TT, 23 June 2008, pp. 12520, 12532: AFRC CO Bakarr participated with CO Rambo in the atrocities against civilians committed in Koidu Geiya.

<sup>1358</sup> TF1-375, TT, 23 June 2008, p. 12514.

<sup>1359</sup> TF1-334, TT, 17 April 2008, p. 7951: JPK and Issa Sesay declaring in mid-March 1998 Operation No Go Zone for civilians and explaining that civilians are dangerous, that they should be recruited and otherwise houses should be burnt and no civilians allowed to live in Kono. See also TF1-597, TT, 22 May 2008, pp. 10517-19.

<sup>1360</sup> TF1-334, TT, 18 April 2008, pp. 7976-79.

<sup>1361</sup> TF1-532, TT, 11 March 2008, pp. 5735-37; [REDACTED] TF1-274, 2 December 2008, p. 21441: Prior to arriving in Buedu upon the Intervention, Bockarie was in regular radio communication with the retreating AFRC/RUF front line commanders from his control station in Buedu.

<sup>1362</sup> TF1-597, TTs, 21 May 2008, pp. 10501-02 & 22 May 2008, p. 10518.

<sup>1363</sup> TF1-532, TT, 11 March 2008, pp. 5740-41; DCT-172, TT, 18 August 2010, pp. 46580-81.

<sup>1364</sup> TF1-532, TT, 11 March 2008, p. 5741; TF1-516, TT, 8 April 2008, p. 6967; TF1-539, TT, 10 June 2008, pp. 11397-98: Mosquito was able to put the entire RUF structure under a strong command and control and had



spoken to his “brother” Charles Taylor and “wanted to leave the AFRC and RUF in one accord.”<sup>1365</sup>

456. Issa Sesay was the Battle Field Commander, directly below Bockarie, and Morris Kallon was the Battle Group Commander.<sup>1366</sup> Morris Kallon was deputised by CO Rambo.<sup>1367</sup> Superman was the commander for the occupied Kono District and there were many AFRC members there, including Leather Boot, Bazzy and Bomblast.<sup>1368</sup>
457. The AFRC/RUF control centre was now based in Buedu,<sup>1369</sup> and communicated regularly with AFRC/RUF front line units which sent daily situation reports.<sup>1370</sup> Bockarie used a team of specially trained SLA radio operators to monitor the activities of ECOMOG forces<sup>1371</sup> and in Kono, SLA and RUF operators worked together.<sup>1372</sup> RUF fighters were no longer considered mere bush colonels or majors.<sup>1373</sup>
458. Aside from the formal command structure, Bockarie maintained his alliance with other prominent AFRC figures, notably Eddie Kanneh who became a trusted associate and

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absolute command over the SLA and RUF at that particular time; TF1-045, TTs, 13 November 2008, pp. 20202-03 & 17 November 2008, p. 20413; By March of 1998, Bockarie had established a proper RUF command structure; TF1-274, TT, 2 December 2008, p. 21477: “when we settled in Buedu there was now a proper command structure because at that time Issa had come.” See also [REDACTED]

<sup>1365</sup> TF1-532, TTs, 11 March 2008, pp. 5741-42 & 31 March 2008, p. 6172; [REDACTED]

[REDACTED] See also Section II.C.: Taylor’s Responsibility for the Crimes in Sierra Leone: Maintained and Strengthen AFRC/RUF Alliance.

<sup>1366</sup> [REDACTED]; TF1-045, TT, 13 November 2008, pp. 20203-04

<sup>1367</sup> TF1-045, TT, 13 November 2008, p. 20204; TF1-567, TT, 2 July 2008, p. 12911.

<sup>1368</sup> TF1-532, TT, 11 March 2008, p. 5742; TF1-375, TT, 23 June 2008, p. 12509; TF1-334, TTs, 17 April 2008, pp. 7959-66 & 18 April 2008, pp. 8012-13; Bazzy was the commander for the Masingbi Road area and Bomblast was the operations and deputy commander. Foday Kallay became the deputy operations commander. RUF Rambo was the acting commander in Gandorhun; TF1-276, TT, 23 January 2008, pp. 2003-04: Working together with the RUF were the SLA front-line commanders Akim, Leatherboot, Eddie Kanneh, Honourable Adams, Honourable Suleh, Honourable Lagat, and Banya who was an SLA commander in Tongo Field; DCT-172, TTs, 12 July 2010, pp. 44272-73; Exh D-84, p. 6 & 18 August 2010, pp. 46672-73.

<sup>1369</sup> TF1-274, TT, 2 December 2008, pp. 21457-61, 21477; TF1-516, TT, 14 April 2008, p. 7532; TF1-568, TT, 12 September 2008, p. 16132; TF1-584, TT, 18 June 2008, p. 12191; TF1-360, TT, 6 February 2008, p. 3206. Until the end of 1999, the AFRC/RUF control station was in Buedu with Bockarie who received daily situation reports from the AFRC/RUF front lines in Sierra Leone including arms & manpower requests. Bockarie also issued Directives to the front lines including upon arrival of supplies to Buedu, a message would be sent from Bockarie to Superman and onward to other stations.

<sup>1370</sup> TF1-274, TT, 2 December 2008, pp. 21477-78; TF1-360, TT, 5 February 2008, pp. 3107-08.

<sup>1371</sup> TF1-274, TT, 2 December 2008, pp. 21462-63: SLA operators were Philip, Gbamayaji and Atatti. See also TF1-516, TT, 14 April 2008, pp. 5732-33.

<sup>1372</sup> TF1-584, TT, 18 June 2008, pp. 12166-67: Several SLA operators worked with the witness (who was RUF) for the RUF commander Superman. They were in charge of monitoring the ECOMOG soldiers.

<sup>1373</sup> TF1-367, TT, 20 August 2008, pp. 14135-36; TF1-375, TT, 23 June 2008, pp. 12505-07.

subsequently played an integral role in the transmission of diamond parcels for Bockarie to Taylor.<sup>1374</sup>

#### Command Structure after ECOMOG Recapture of Koidu Town

459. After ECOMOG retook Koidu Town in approximately April 1998, the AFRC/RUF retreated to the camps surrounding Koidu Town, and Superman remained the immediate commander taking orders from Bockarie.<sup>1375</sup> Both RUF and SLA officers held commands in the area.<sup>1376</sup> [REDACTED].<sup>1377</sup>
460. Communications flowed between PC Ground where Superman was based and Buedu, where Bockarie was based. Bockarie was “the overall commander at that time within the RUF. He was the most senior man. That was why where he was the headquarters for the RUF.”<sup>1378</sup>

#### **V. C. CONTINUED CONCERTED ACTION**

461. The evidence demonstrates that the AFRC/RUF alliance forces continued to work and operate in coordination after the Intervention and onward. Extensive collaboration and cooperation went on between the various commanders up to and including the period of the invasion of Freetown in January 1999, and onward from that operation.
462. This on-going AFRC/RUF alliance is evident in Exhibit D-85, a comprehensive report to Sankoh from Major Francis Musa dated 31 August 1999. In the report, Musa notes that 90% to 95% of the “SLA brothers” remained loyal to the movement. Musa also credits the consultation, coordination and cooperation among senior officers and other ranks for the recapture of Joru Jungle, Kono, Makeni, Magburaka, Segbwema, Tongo Fields, Western Jungle, Freetown and many other places from the end of 1998 to early 1999. Musa’s report also notes that the multi-axis operation resulting in the Freetown invasion was a combined AFRC/RUF operation.<sup>1379</sup> Abu Keita testified that upon his

<sup>1374</sup> See Section III: Taylor Benefitted.

<sup>1375</sup> TF1-532, TT, 11 March 2008, p. 5767; [REDACTED].

<sup>1376</sup> [REDACTED]; TF1-360, TT, 5 February 2008, pp. 3113-14, 3151, 3157-58; TF1-584, TT, 18 June 2008, pp. 12159-60; DCT-215, TT, 30 March 2010, p. 38241. See also TF1-532, TT, 11 March 2008, p. 5740; TF1-334, TT, 17 April 2008, p. 7964: Most of the deputies to the camp commanders were AFRC. Wherever there was an AFRC commander there would be an RUF deputy and vice versa.

<sup>1377</sup> [REDACTED].

<sup>1378</sup> TF1-584, TT, 18 June 2008, p. 12169; TF1-275, TT, 21 February 2008, p. 4509; TF1-360, TT, 5 February 2008, p. 3140.

<sup>1379</sup> See for example, Exh. P-67: All held a forum and decided to continue under one structure and command; Exh. P-93: Issa Sesay report re the movement to the outskirts of Freetown and attempts of the forces to join

arrival in Buedu in late 1998, the SLAs and RUF were combined as the People's Army, with both AFRC and RUF elements in the chain of command and everybody working together.<sup>1380</sup>

463. Around the early to middle part of 1998, Bockarie returned from Monrovia and called a meeting at a location between an old Waterworks located near Buedu which was attended by JPK. At the meeting, Bockarie informed the troops that he had been promoted to General by Taylor and, since they were now no longer in power and fighting in the jungle, everyone would be under the command of the RUF with AFRC as deputies.<sup>1381</sup>
464. As discussed in paragraphs 156 and 158-160 above, Bockarie also brought back a plan for coordinated AFRC/RUF attacks across Sierra Leone to commence with retaking Kono and culminate in retaking control of Freetown.

#### **V.D. SAJ MUSA GOES NORTH**

465. AFRC and RUF forces also worked together on operations in the Northern axis. For example the attack against Mongor Bendugu<sup>1382</sup> was led by RUF Komba Gbundema alongside AFRC commanders.<sup>1383</sup>
466. After the attack on Mongor Bendugu, a forum was held with SAJ Musa, Superman, General Bropleh, Brigadier Mani, Colonel T and others where Superman told SAJ Musa that Bockarie had told him (Superman) to join forces with SAJ Musa to try and get to Kabala and then Freetown.<sup>1384</sup>
467. There was discussion between SAJ Musa, Superman and Bockarie about the larger plan in relation to taking back the country. The move by Superman to Musa was also

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together; Exh. P-149: report regarding combined forces and success of those combined forces, Exh. D-8: transcript of briefing to Sankoh; DCT-146, TTs, 23 March 2010, pp. 37888-91& 24 March 2010, pp. 37900-01.

<sup>1380</sup> TF1-276, TT, 22 January 2008, p. 1970.

<sup>1381</sup> TF1-571, TT, 8 May 2008, pp. 9392-95; TF1-516, TT, 8 April 2008, pp. 6854, 6883; TF1-577, TT, 4 June 2008, pp. 11005-07: The witness testified to reading of Bockarie's promotion after March 1998 but before his birthday on 23 April 1998. See also TF1-334, TT, 18 April 2008, pp. 8027-28: Morris Kallon arrived in Koidu Town and Superman informed Buzzy that Kallon would be an adviser. When Gullit arrived at Five-Five spot in Koidu Town, Buzzy handed over command so Gullit became the commander for the Masingbi Road axis; TF1-567, TT, 2 July 2008, pp. 12910-11: September 1998 in Kono District, Issa Sesay was the overall commander in the field, while Morris Kallon was next in command followed by Boston Flomo and Banya.

<sup>1382</sup> TF1-375, TT, 23 June 2008, pp. 12546-49: SAJ Musa was involved in the planning of the attack on Mongor Bendugu in late 1998.

<sup>1383</sup> TF1-375, TT, 23 June 2008, pp. 12548-49; TF1-263, TT, 6 October 2008, pp. 17950-51; TF1-334, TT, 21 April 2008, pp. 8150-51.

<sup>1384</sup> TF1-263, TT, 6 October 2008, pp. 17956-57: Superman was among the commanders that attacked Mongor Bendugu; TF1-334, TT, 21 April 2008, pp. 8150-53.

discussed with Musa.<sup>1385</sup> After Bockarie sent Superman to join SAJ Musa, all of the commanders communicated and coordinated with each other.<sup>1386</sup> There was frequent communication between Sam Bockarie and SAJ Musa and Superman in the north.<sup>1387</sup> There was also communication with Gullit at Rosos, including requests from Gullit for manpower and materiel, which was supplied.<sup>1388</sup> Superman worked with SAJ Musa, Mani and Bropleh and combined AFRC/RUF forces and attacked Kabala,<sup>1389</sup> using in part ammunition sent from Taylor in Liberia.<sup>1390</sup>

468. After being pushed out of Kabala, the combined AFRC/RUF forces moved to Koinadugu.<sup>1391</sup> This movement in June/July 1998 comprised mixed AFRC/RUF soldiers. Superman and Bockarie communicated with each other and also with Gullit at Rosos. Brigadier Mani and General Bropleh also had access to communications from Kurubonla and Koinadugu respectively.<sup>1392</sup>
469. Exhibit P-602 is the minutes from a forum meeting in Buedu in August 1998 attended by, among others, Defence witness Sam Kolleh. The first page of the document lists the forum attendees, with Bockarie at number 1. Significantly, the 17 leaders in attendance included three AFRC leaders: S.K. Kaibanga, S.S Williams and Honourable George Adams. Also of note are Bockarie's opening remarks saying this was a preliminary meeting and that subsequent meetings should be held in Kangama with the Chairman, JPK. This document illustrates the continued cooperation between high level AFRC and RUF officers into August 1998.

<sup>1385</sup> TF1-360, TT, 5 February 2008, pp. 3168-69 and 6 February 2008, pp. 3197-98. See also Exh. P-52.

<sup>1386</sup> TF1-360, TT, 5 February 2008, pp. 3159-69.

<sup>1387</sup> TF1-360, TT, 5 February 2008, pp. 3172-76 and 6 February 2008, pp. 3184-85, 3193-94.

<sup>1388</sup> TF1-360, TT, 5 February 2008, pp. 3172-76 and 6 February 2008, pp. 3184-85, 3199; TF1-275, TT, 22 February 2008, pp. 4528-29.

<sup>1389</sup> TF1-375, TT, 24 June 2008, p. 12563; TF1-263, TT, 6 October 2008, pp. 17960-61.

<sup>1390</sup> TF1-375, TT, 24 June 2008, pp. 12556-60.

<sup>1391</sup> TF1-375, TT, 24 June 2008, p. 12563; TF1-263, TT, 6 October 2008, pp. 17959-62; TF1-584, TT, 19 June 2008, pp. 12248-53, 12256-57: In Koinadugu, the witness met Superman, SAJ Musa and other commanders such as Foday Lansana, Gugumeh (Mohamed Kallon), Tall Bai Bureh, Rambo Red Goat (SLA), and O-Five. The radio operators present included Alfred Brown, King Perry, Eddie Murphy, Albert Boima, Waco-Waco (Vandi Massaquoi), Jusu Kanneh. See also DCT-146, TT, 24 March 2010, p. 37910.

<sup>1392</sup> TF1-275, TT, 22 February 2008, p. 4525; TF1-375, TT, 24 June 2008, p. 12563

### Fallout between Superman and SAJ Musa

470. Superman and SAJ Musa fell out in early October 1998 over the killing of a recruit.<sup>1393</sup> Superman's group headed to Pumpkin Ground<sup>1394</sup> while SAJ Musa and his group went to Rosos.<sup>1395</sup> At Rosos, Gullit did not carry out SAJ Musa's command to arrest all the RUF fighters there, as Gullit told SAJ Musa that would destabilize all of the fighters and the mission would fail. As a consequence, the RUF fighters were not arrested.<sup>1396</sup> In Rosos, SAJ Musa and his group remained outside of Bockarie's control; this continued until SAJ Musa's death at Benguema.<sup>1397</sup>
471. General Bropleh worked together with SAJ Musa and RUF troops and commanders throughout most of 1998 in the Northern axis.<sup>1398</sup> When in-fighting broke out between SAJ Musa and Superman, Bropleh,<sup>1399</sup> Savage and Brigadier Mani all stayed with Superman in Koinadugu,<sup>1400</sup> aligning themselves with the RUF.

### Fallout between Superman and Bockarie

472. At around the same time as the Superman-SAJ fallout, Superman and Bockarie quarrelled because Bockarie called Superman's "wife" an idiot over the radio.<sup>1401</sup> However, as discussed in paragraphs 160 and 166 above, after the failed Fitti Fatta mission, Superman met with Bockarie in Buedu and thereafter took AFRC/RUF fighters to the North to join SAJ Musa. According to Superman, where there were AFRC there should be RUF, reinforcing Bockarie's message of joint action. Also, after Bockarie's trip to Burkina Faso to get arms, on Bockarie's instruction, Superman and

<sup>1393</sup> TF1-375, TT, 24 June 2008, pp. 12578-79.

<sup>1394</sup> TF1-584, TT, 19 June 2008, p. 12262; TF1-275, TT, 22 February 2008, pp. 4548-49.

<sup>1395</sup> TF1-360, TT, 6 February 2008, pp. 3209-10; [REDACTED]; DCT-172, TT, 8 July 2010, pp. 44087-89.

<sup>1396</sup> TF1-360, TT, 6 February 2008, p. 3211.

<sup>1397</sup> TF1-263, TT, 6 October 2008, pp. 17968-70; TF1-360, TT, 6 February 2008, p. 3211; TF1-585, TT, 8 September 2008, p. 15709; TF1-516, 8 April 2008, pp. 6930-31; TF1-375, TT, 24 June 2008, pp. 12568-69, 12574-75. Notwithstanding this, SAJ Musa encouraged Superman to attack Makeni in December 1998. He also cooperated with Kumba Gbundema, Superman and Senegalese and jointly planned operations and took RUF radio operators on board.

<sup>1398</sup> TF1-375, TT, 23 June 2008, pp. 12547-48; TF1-275, TT, 22 February 2008, pp. 4525-27; TF1-584, TT, 19 June 2008, p. 12255; [REDACTED]; TF1-532, TT, 11 March 2008, p. 5734. General Bropleh of the Special task Force who initially fought with his men against NPFL forces fought alongside the SLA even after the 1997 coup. STF fighters were still part of the AFRC/RUF coalition in 1998 with about 200 to 300 fighters in the task force. The STF troops fled together with the RUF and AFRC troops when the Junta was forced from Freetown. See also [REDACTED].

<sup>1399</sup> TF1-375, TT, 24 June 2008, p. 12579; TF1-584, TT, 19 June 2008, pp. 12262-63: According to this witness, who was with Superman in the Koinadugu axis, Bropleh moved with Superman and other RUF commanders to a place called Pumpkin ground where they stayed nearly two months before the move to Makeni.

<sup>1400</sup> TF1-263, TT, 6 October 2008, pp. 17968-69.

<sup>1401</sup> DCT-172, TT, 19 August 2010, pp. 46678-79.

the subordinates under his command took part in the AFRC/RUF attack on Makeni in December 1998. A big meeting was held in December 1998 in Buedu,<sup>1402</sup> which marked the start of the multi-axis offensive commencing with the attack on Kono and moving on to Freetown. Around the same time the Kono attack began, SAJ Musa was starting to move toward Freetown and Gullit was staying in touch with Bockarie through RUF radio operators.<sup>1403</sup> Even with the internal fighting, the alliance was still working together.<sup>1404</sup>

### Cooperation in the North

473. A large number of troops were present in Koinadugu, with former SLAs under the command of SAJ Musa and Gullit and with RUF under the command of Superman and Komba Gbundema.<sup>1405</sup> Brigadier Mani was the most senior officer of the SLA in Kurubonla at that time and settled disputes between Bockarie and SAJ Musa or Superman. Brigadier Mani also convinced Superman and Bockarie to send reinforcements to Rosos when requested by Gullit.<sup>1406</sup>
474. A new unit called the Red Lion Battalion was formed by Superman and SAJ Musa at Koinadugu to join the SLAs at Rosos. The group was comprised of STF, former SLA/AFRC and RUF forces and was commanded by Colonel O-Five and Major CY (Superman's bodyguard) as his deputy. Also sent to Rosos were RUF radio operators Alfred Brown, King Perry and Elongima as well as two SLA operators to form the communication unit for Gullit.<sup>1407</sup> This Rosos contingent maintained regular communications with SAJ Musa, Superman and Brigadier Mani in Koinadugu, Bockarie in Buedu,<sup>1408</sup> and Superman Ground.<sup>1409</sup>
475. The troops operating in the Bombali axis received from Superman reinforcements of about 100 fighters, a majority of whom were RUF fighters, as well as enough ammunition to go to Freetown.<sup>1410</sup> This clearly underlines that the AFRC/RUF alliance

<sup>1402</sup> Exh. P-63.

<sup>1403</sup> TF1-360, TT, 6 February 2008, pp. 3902-11; TF1-334, TT, 21 April 2008, pp. 8139-42, 8146 and 22 April 2008, pp. 8217-18; DCT-102, TT, 4 November 2010, p. 48819; Gullit was a friend to Bockarie.

<sup>1404</sup> TF1-334, TT, 22 April 2008, pp. 8222-24.

<sup>1405</sup> TF1-275, TT, 22 February 2008, p. 4524; DCT-172, TT, 19 August 2010, p. 46725.

<sup>1406</sup> TF1-275, TT, 22 February 2008, p. 4526-27.

<sup>1407</sup> TF1-584, TT, 19 June 2008, p. 12259-61; TF1-360, TT, 6 February 2008, pp. 3184-89.

<sup>1408</sup> TF1-360, TT, 6 February 2008, pp. 3197-98, 3200-03 re. Exh. P-52 depicting primary AFRC/RUF radio locations operational in Kono, Kabala and Rosos under Buedu headquarter station; TF1-275, TT, 22 February 2008, p. 4526.

<sup>1409</sup> TF1-584, TT, 18 June 2008, pp. 12171-72; prior to SAJ Musa arriving at Rosos.

<sup>1410</sup> TF1-028, TT, 7 May 2008, pp. 9205-10.

was working together to achieve the shared goal of recapturing Freetown to achieve one of the ultimate objectives – to control the people and territory of the entire country.<sup>1411</sup>

The Red Lion Battalion, which operated in Bombali District all the way to, and in Freetown, included NPFL/AFL soldiers,<sup>1412</sup> clearly indicating that the subordinates Taylor sent were playing a significant role in this multi-axis nationwide offensive.

476. In its totality, the evidence demonstrates that in the crucial period after the Intervention through the Freetown invasion, the AFRC/RUF alliance continued despite the difficulty presented by losing the capital. The evidence demonstrates a further point that is important to understanding the larger alliance. Simply examining events through the label of “AFRC” or “RUF” is insufficient. Rather, it was the relationship between individual commanders regardless of their faction that was critical. In this regard, the evidence is clear that the primary discord that existed in this period was not always a matter of tensions within the alliance but simply tensions between individuals. It is indisputable that by October 1998 SAJ Musa was not going to cooperate with Bockarie and the RUF. But SAJ Musa’s lack of cooperation is not tantamount to the lack of cooperation by the AFRC as a whole. When the evidence is considered on an individual commander level, in addition to the overall cooperation between the factions, it is clear that on the whole the alliance under Bockarie functioned effectively to the point of almost re-gaining control of the entire country.

#### **V. E. ALLIANCE WITH MAJORITY OF AFRC CONTINUED POST-FREETOWN INVASION**

477. The Freetown invasion is discussed at Section VI of this Brief. This following section will therefore deal with the aftermath. [REDACTED],<sup>1413</sup> Bockarie communicated with Bazzy in April/May 1999 and told him to block ECOMOG so that they would not be able to get Masiaka. Bockarie sent ammunition to Bazzy which was used to attack ECOMOG positions, make the area fearful and spread terror on the civilian population.<sup>1414</sup> The BBC reported the attack on Mamamah and the display of corpses.<sup>1415</sup>

<sup>1411</sup> See Section VI.A.: December Offensive Leading into Freetown Invasion.

<sup>1412</sup> TF1-334, TT, 22 April 2008, pp. 8202-03 and 28 April 2008, pp. 8780-81: RUF and SLA fighters all formed the Red Lion Battalion which was sent to reinforce Gullit in the Bombali axis.

<sup>1413</sup> [REDACTED]

<sup>1414</sup> TF1-334, TT, 23 April 2008, pp. 8414-18. When the witness was asked to describe “make fearful,” he stated, “That is to execute them, display their corpses in the street.”

<sup>1415</sup> TF1-334, TT, 23 April 2008, p. 8418.

478. Around April/May 1999, Sankoh told Gullit at Newton to remain vigilant and alert as there was a concern that ECOMOG might attack.<sup>1416</sup> Around the same period, Bockarie maintained ongoing communication with Bazzy, who was based at Gberibana near Okra Hills.<sup>1417</sup> RUF, former SLA, STF and former NPFL fighters conducted operations to clear Gberibana, killing civilians and displaying corpses on the road.<sup>1418</sup> Whenever areas were captured (such as Port Loko, Makolo, Gberi Junction, Mile 38, Masumana) Bazzy called Bockarie to report.<sup>1419</sup>
479. Bazzy also communicated with Morris Kallon and Issa Sesay when his forces captured Malian troops in Port Loko town around May/June 1999. Bockarie told Bazzy to secure the Malians and then went on international media to announce that troops under his command led by Bazzy had captured Malian commanders, and he demanded that Malians leave the shores of Sierra Leone immediately or else they would be executed. Bockarie's threat worked as the Malians backed out immediately and left Sierra Leone.<sup>1420</sup>
480. When UNAMSIL personnel were captured, AFRC commander Bomblast communicated with Bockarie and Issa Sesay.<sup>1421</sup> For the attacks in Port Loko, the West Side troops used the ammunition sent by Bockarie.<sup>1422</sup> The troops based with Bazzy in Okra Hills around May 1999 and which would be called the West Side Boys comprised some RUF and NPFL soldiers of the former Red Lion Battalion.<sup>1423</sup> Bomblast was second in command and director of operations.<sup>1424</sup>
481. By October 1999, there were about 500-600 members of the West Side Boys under the command of Bazzy, including some RUF men such as Lieutenant Colonel Stagger.<sup>1425</sup> In addition, RUF men were fighting alongside the West Side Boys in Gberibana<sup>1426</sup> and all the fighters worked together and were under the command of Bockarie.<sup>1427</sup>

<sup>1416</sup> TF1-334, TT, 23 April 2008, pp. 8405-06.

<sup>1417</sup> TF1-334, TT, 23 April 2008, pp. 8414-15.

<sup>1418</sup> TF1-334, TT, 24 April 2008, pp. 8449-51.

<sup>1419</sup> TF1-334, TT, 24 March 2008, pp. 8469-71, 8475-77.

<sup>1420</sup> TF1-334, TT, 24 April 2008, pp. 8456-60. The witness heard this announcement on Focus on Africa.

<sup>1421</sup> TF1-334, TT, 24 April 2008, pp. 8475-77.

<sup>1422</sup> TF1-334, TT, 24 April 2008, pp. 8458-59.

<sup>1423</sup> TF1-334, TT, 24 April 2008, pp. 8444-45.

<sup>1424</sup> TF1-334, TT, 17 April 2008, pp. 7865-66, 7871; DCT-172, TT, 12 July 2010, pp. 44201-03.

<sup>1425</sup> TF1-334, TT, 28 April 2008, p. 8654-56; Corinne Dufka, TT, 22 January 2008, p. 1930.

<sup>1426</sup> TF1-334, TT, 28 April 2008, pp. 8654-55.

<sup>1427</sup> TF1-334, TT, 28 April 2008, p. 8659.



482. In October 1999, Issa Sesay led Superman, Isaac Mongor and other RUFs in an attack to force Brigadier Mani and the SLAs out of Makeni for not following Sankoh's orders.<sup>1428</sup> In this fighting, the SLAs killed the RUF fighter Senegalese.<sup>1429</sup> However, despite this serious infighting, the AFRC/RUF alliance did not implode. For example, in 2000, joint mining operations continued in Kono. TF1-367, an RUF, was mining commander from 1998 to 2000 while his deputy operations commander was AFRC Staff Captain Alhaji.<sup>1430</sup>
483. The meeting Taylor organized in Monrovia with JPK and Sankoh in August 1999 aimed at reconciling Sankoh and JPK and another on 7 April 2000 further illustrate the continuation of the AFRC/RUF alliance.<sup>1431</sup> When SLAs loyal to JPK began attacking the RUF in May 2000, other members of the former AFRC/SLAs stayed on the RUF side.<sup>1432</sup>

#### AFRC represented at Lomé in July 1999

484. During the Lomé negotiations, the AFRC was represented by Leatherboot.<sup>1433</sup> Moreover, JPK and Bockarie issued letter of support to Lomé.<sup>1434</sup> After the signing of the Lomé Accord in 1999, when Sankoh first returned to Sierra Leone, the RUF command structure consisted of Bockarie in control of the fighters in the field with Issa Sesay and Morris Kallon next in the hierarchy.<sup>1435</sup> Sankoh appointed Akim Turay, a former SLA, as his Chief Security Officer.<sup>1436</sup> Dauda Aruna Fornie (DAF) testified to Sankoh's control over AFRC commanders such as Bazzy and JPK during 1999.<sup>1437</sup>

#### AFRC on both sides of Superman/Issa Sesay infighting

485. [REDACTED],<sup>1438</sup> and ordered his men (RUF and AFRC fighters) to join forces sent by Bockarie to Liberia to fight

<sup>1428</sup> DCT-062, TT, 26 April 2010, pp. 39878-79; DCT-172, TT, 23 August 2010, p. 46874; TF1-174, TT, 27 January 2009, p. 23659.

<sup>1429</sup> TF1-174, 28 January 2009, p. 23730.

<sup>1430</sup> TF1-367, TT, 21 August 2008, pp. 14192-94, 14200; DCT-172, TTs, 26 July 2008, pp. 44652-53 & 28 July 2010, pp. 44819-20.

<sup>1431</sup> Exh. P-134 A & B

<sup>1432</sup> DCT-172, TT, 23 August 2010, pp. 46879-80.

<sup>1433</sup> TF1-274, TT, 3 December 2008, p. 21615; TF1-567, TTs, 2 July 2008, p. 12930 & 4 July 2008, pp. 12967-69; DCT-172, TT, 29 July 2010, p. 45049; Leatherboot was an AFRC honourable, one of the coup makers.

<sup>1434</sup> Exh. D-199, p. 6.

<sup>1435</sup> TF1-532, TT, 31 March 2008, p. 6171; TF1-334, TT, 24 April 2008, p. 8485.

<sup>1436</sup> DCT-172, TT, 23 August 2010, p. 46880.

<sup>1437</sup> TF1-274, TT, 11 December, 2008, pp. 22190-95. See also Exh. P-264.

<sup>1438</sup> [REDACTED].

against Mosquito Spray.<sup>1439</sup> When Sankoh was arrested, Issa Sesay appointed Superman to the number two position in the RUF.<sup>1440</sup>

486. In assessing the AFRC/RUF alliance, [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>1441</sup>

487. The Accused exercised control and authority over the AFRC/RUF alliance through the chains of command headed by Sankoh, Bockarie and Issa Sesay.<sup>1442</sup> Moreover, Taylor acted as the ultimate mediator in disputes between the AFRC and RUF.<sup>1443</sup> He admitted to bringing Sankoh and JPK together in Monrovia in August 1999, and urged them to continue working together.<sup>1444</sup> Thereafter, in an elaborate public ceremony under his [Taylor's] auspices, Sankoh and JPK underscored the continued importance of the AFRC/RUF alliance.<sup>1445</sup> Thus, Taylor strengthened the anti-government alliance that had brought so much war and committed so many atrocities against the people of Sierra Leone. This alliance continued until the conflict was declared officially ended in mid-January 2002. Even when Johnny Paul Koroma and some of his followers ceased to engage in concerted action within the alliance, the majority of AFRC fighters and commanders such as Akim Turay and Leatherboot continued to participate within the alliance and subordinate themselves to the senior alliance leadership.

<sup>1439</sup> TF1-375, TT, 24 June 2008, pp. 12618-19.

<sup>1440</sup> DCT-172, TT, 26 July 2010, pp. 45592-93.

<sup>1441</sup> [REDACTED]

<sup>1442</sup> See also Section VIII.

<sup>1443</sup> TF1-597, TT, 21 May 2008, pp. 10448-52: When Issa Sesay resisted arrest after the looting of the Iranian embassy, JPK called Taylor for guidance (from a landline at his house on Spur Road). JPK called Taylor because "Charles Taylor was the godfather of the RUF, so whatever the situation was we needed to call him to let him know that that was what was going on. See also TF1-561, TT, 15 May 2008, pp. 9953-54.

<sup>1444</sup> Accused, TT, 2 November 2009, pp. 30847-53, 30862-63; TF1-334, TT, 24 April 2008, pp. 8501-06; Exh. D-22. See also Section II.C.: Taylor's Responsibility for the Crimes in Sierra Leone: Maintained and Strengthen AFRC/RUF Alliance.

<sup>1445</sup> Exh. D-222, D-50 & D-78.

## VI. THE DECEMBER 1998 TO JANUARY 1999 OFFENSIVE

488. Charles Taylor's support for the AFRC/RUF led to the devastating rebel offensive in December 1998. Taylor's contributions to the crimes, described above in Section II, facilitated the delivery of an unprecedented amount of ammunition to the AFRC/RUF and the provision of important manpower, including SLA soldiers and Liberian fighters. The newly fortified rebels were then able to launch a multi-axis attack that resulted in the destruction of much of ECOMOG's military strength in the country. For the first time in the war, the AFRC/RUF was able to capture and hold large towns, including Koidu, Magburaka, Makeni and Lunsar as they marched toward the capital.

### VI.A. THE LATE 1998 OFFENSIVE HOPED TO CAPTURE FREETOWN

489. The objective of this huge offensive was to capture the key strategic areas of Sierra Leone, including the capital Freetown. Defence witnesses corroborated Prosecution evidence that capturing Freetown was always the objective of the RUF.<sup>1446</sup> The very name given to the operation – “Free the Leader”<sup>1447</sup> – reveals the plan was to go to Freetown where the leader, Foday Sankoh, was then detained.
490. Both Karmoh Kanneh and Isaac Mongor, top RUF commanders at the time, testified that after Bockarie returned from Burkina Faso and Monrovia in December 1998, he held meetings where he told commanders that he had discussed a plan with President Taylor to attack Kono and Freetown.<sup>1448</sup> TF1-585 spoke about an earlier meeting where Bockarie had discussed a plan to attack Kono and Freetown with SAJ Musa and Superman's group.<sup>1449</sup> TF1-375 said that when Superman was sent to the North, he told

<sup>1446</sup> DCT-068, TT, 11 March 2010, p. 37129 and 12 March 2010, p. 37204; DCT-172, TT, 4 August 2010, p. 45433.

<sup>1447</sup> DCT-215, TT, 31 March 2010, p. 38385; DCT-146, TT, 12 April 2010, p. 38662; TF1-571, TT, 8 May 2008, p. 9398; TF1-367, TT, 20 August 2008, pp. 14164-65: at a meeting before the attack on Koidu, it was explained that the plan was to go to Freetown and release Foday Sankoh so the operation was given the code “Operation Free Foday Sankoh.”

<sup>1448</sup> TF1-571, TT, 9 May 2008, pp. 9423-25; Isaac Mongor testified on 11 March 2008 at p. 5795: “Well, after he had shown the ammunitions to me he told me the plan that he had come with respect to those ammunitions. He told me that he and Mr Taylor sat together and planned to come and run an operation. He said he sat with the Pa, Mr Taylor, who took out a map and showed the locations where the RUF and the SLAs, where we occupied. He showed that to him. He came with a plan for us to launch an operation whereby we'll capture Kono, Makeni and advance to Freetown. And we were also to attack Joru. So those were the areas we were to capture. We were also to launch another attack on Kenema. We were to attack Kenema as well.” See also

<sup>1449</sup> TF1-585, TT, 8 September 2010, p. 15700.

SAJ Musa that “Bockarie told him to work along with the AFRC to join forces, that it would be good for them to get back to Freetown.”<sup>1450</sup>

491. TF1-367 attended a meeting headed by Issa Sesay in Kono district where the December attack on Koidu was planned. He was asked if at the forum the objectives of the attack were discussed and he responded:

Yes, Koidu Town itself, to capture the town itself, and from there we should not stop anywhere. We should go straight to Freetown. That was our determination. We should go to Freetown and release Foday Sankoh.<sup>1451</sup>

492. Foday Lansana who was with Superman in the Northern Jungle testified:

We were at Pumpkin Ground when we got information from the BBC that Foday Sankoh has been condemned in Freetown. Based on this information, Sam Bockarie called Superman over the HF radio and instructed him that this time they need not to waste time but to march on to Freetown. He told Superman that he was also in communication with Gullit and that Superman should get ready for Makeni, on to Freetown. Gullit will also start from Lunsar, on to Freetown. He had prepared Issa Sesay and Morris Kallon to also move on Koidu Town, on to Makeni. Based on these instructions, Superman organised troops that were under his command and we moved from Pumpkin Ground on to Alkalia, to Makeni, after that instruction.<sup>1452</sup>

493. On 27 December 1998, Bockarie told the BBC that the rebels would attack Freetown if Kabbah did not resign.<sup>1453</sup>

494. The Defence case confirmed that the goal of the 1998 offensive was to take Freetown. Defence witness Martin George testified that he attended a meeting in Buedu in December 1998 where:

[T]he most important thing that I know was discussed at that meeting was how to go about to capture Kono. That was the most important thing, really, that I can remember. It was not just Kono. To even advance as far as Makeni and even beyond that.<sup>1454</sup>

495. Defence witness Charles Ngebeh attended the forum Issa Sesay held before the December attack on Koidu and agreed that the objective of the operation was to go all the way to Freetown.<sup>1455</sup>

<sup>1450</sup> TF1-375, TT, 24 June 2008, p. 12557.

<sup>1451</sup> TF1-367, TT, 20 August 2008, p. 14164.

<sup>1452</sup> TF1-275, TT, 22 February 2008, p. 4549.

<sup>1453</sup> Exh. P-343A, from 0:22; see also Exh. P-343B, p. 23596.

<sup>1454</sup> DCT-062, TT, 28 April 2010, p. 40175.

<sup>1455</sup> DCT-146, TT, 12 April 2010, p. 38667.

## VI.B. RUF AND AFRC REUNITE AFTER DEATH OF SAJ MUSA

496. In late December 1998, forces led by SAJ Musa and other SLA/AFRC commanders captured Benguema barracks just outside of Freetown. While led by SLAs, this force included important RUF elements, including radio operators King Perry and Alfred Brown, who had their own RUF bodyguards, and RUF and Liberian fighters in the Red Lion battalion.
497. Bockarie had tried to enlist SAJ Musa's cooperation in this 1998 offensive and to a significant but limited extent, Musa coordinated his operations with the RUF leadership. For example, Musa accepted Alfred Brown and King Perry and their bodyguards into his ranks, even though it was known that radio operators were used by RUF commanders to keep them apprised of what was going on in the units to which they were assigned.<sup>1456</sup> Other fighters from Liberia were sent and joined the group in the Northern Jungle, many being integrated into the Red Lion Battalion.<sup>1457</sup> Musa accepted ammunition from Superman and Komba Gbundema that Bockarie had gotten from Taylor prior to Fitti Fatta<sup>1458</sup> and coordinated joint attacks on Mongor Bendugu<sup>1459</sup> and Kabala<sup>1460</sup> with RUF forces. When Bockarie sent Superman to join SAJ Musa in the North,<sup>1461</sup> he passed on the message that they should work together so as to get back to Freetown.<sup>1462</sup>
498. However, Musa had a poor relationship with Sam Bockarie and had made it clear he would not recognize Bockarie's leadership. The evidence shows that SAJ Musa was a unique obstacle to cooperation between the RUF and AFRC as he had never enjoyed close relations and never wanted to take orders from the RUF "bush generals."<sup>1463</sup> Musa himself had tried to arrest Issa Sesay in Freetown in connection with the looting

<sup>1456</sup> For example, Issa Sesay testified "like the radio operators, they were all informants to Mr. Sankoh." See DCT-172, TT, 14 July 2010, p. 44498.

<sup>1457</sup> TF1-143, a child soldier, asked his commander who were the new men and was told by his commander that they were Liberian reinforcements for their own group to go to Freetown. See TF1-143, TT, 5 May 2008, p. 8993.

<sup>1458</sup> TF1-375, TT, 23 June 2010, pp. 12536-44; TF1-360, TT, 5 February 2008, pp. 3162-63, 3169.

<sup>1459</sup> TF1-375, TT, 23 June 2008, pp. 12543-44, 12547-49.

<sup>1460</sup> TF1-375, TT, 24 June 2008, pp. 12559-60.

<sup>1461</sup> TF1-360, TT, 5 February 2008, pp. 3167-68.

<sup>1462</sup> TF1-375, TT, 24 June 2008, pp. 12556-57.

<sup>1463</sup> TF1-375, TT, 24 June 2008, p. 12579: "SAJ Musa said he will not take orders from Sam Bockarie and that he was going to court-martial Senegalese."

of the Iranian Embassy. However, Johnny Paul Koroma, after consulting with Charles Taylor, overruled Musa and Sesay was not arrested.<sup>1464</sup>

499. SAJ Musa was not one of the “Honourables” that had carried out the coup against Kabbah. Musa was studying in England at the time of the coup before being invited back to join the AFRC government. Unlike the enlisted men who carried out the coup, Musa was educated and had been an officer and Vice-Chairman of the NPRC government. As an NPRC official, Musa acquired his own political following, becoming “very popular” for fighting graft and for his last-Saturday-of-the-Month cleaning exercise.<sup>1465</sup> In addition to Musa’s education, experience and popularity, Defence witness Sam Kolleh described SAJ Musa as “power greedy.”<sup>1466</sup> Issa Sesay testified Musa was “proud and stubborn”<sup>1467</sup> and told the Trial Chamber that in the Northern Jungle, SAJ Musa no longer recognized Johnny Paul Koroma as the Leader.<sup>1468</sup> Sesay testified that Musa was the only AFRC who refused to cooperate at all with the RUF.<sup>1469</sup> As such, it was clear that SAJ Musa was an obstacle to the smooth coordination of the RUF-led alliance with the AFRC. Even with such an obstacle, however, as discussed in other paragraphs of this Brief, the majority of AFRC fighters and AFRC commanders remained loyal to the alliance and subordinated themselves to the senior alliance leadership.

500. The evidence presented in this trial strongly suggests that SAJ Musa’s death at Benguema was in truth an execution made to look like an accident.<sup>1470</sup> However,

<sup>1464</sup> Issa Sesay’s version of events is found at 30 July 2010, p. 45121 and 18 August 2010, pp. 46576-78; compared with Samuel Kargbo, TT, 21 May 2008, pp. 10448-52 (after the incident, Musa wanted to arrest Sesay who resisted arrest, deploying RUF to protect him. JPK then sought mediation from Charles Taylor, who advised him to set up a board of inquiry, which JPK implemented) and 22 May 2008, pp. 10613-15 explaining from an AFRC perspective why the RUF was unhappy with SAJ Musa and, in particular, why Sam Bockarie was hostile to Musa.

<sup>1465</sup> Exh. P-603, p. 1.

<sup>1466</sup> DCT-102, TT, 4 November 2010, p. 48824.

<sup>1467</sup> DCT-172, TT, 19 August 2010, p. 46682.

<sup>1468</sup> DCT-172, TT, 14 July 2010, p. 44407.

<sup>1469</sup> DCT-172, TT, 19 August 2010, pp. 46680-81.

<sup>1470</sup> Musa allegedly died after being hit by shrapnel from an explosion at an ammunition dump in Benguema, but no one else was injured. Witness A.B. Sesay saw Musa’s body and the only evidence of injury was a round hole in the back of his helmet. He testified that a rumour had gone around that Gullit had shot Musa (TF1-334, TT, 22 April 2008, p. 8246); Komba Sumana was with Superman and Brigadier Mani in Makeni when they received a radio call from “55” who said “they had shot SAJ Musa and they wanted reinforcements.” (TF1-263, TT, 6 October 2008, p. 17977); Karmoh Kanneh testified that earlier in Buedu, Bockarie had said at a meeting before the late 1998 offensive that SAJ Musa was a traitor, was supposed to die, and that assignment had been given to Gullit to kill SAJ Musa by shooting him in battle (TF1-571, TT, 9 May 2008, pp. 9423-30); Defence witness John Vincent testified that there was a history of RUF leaders ordering executions to be made to look like deaths from enemy fire (DCT-215, TT, 31 March 2010, pp. 38364-68).

regardless of whether the Trial Chamber makes this finding or not, the evidence is unequivocal that the death of SAJ Musa led to a resumption of full coordination between Bockarie and his personnel and the forces now led by Gullit.

501. In contrast to SAJ Musa, Gullit had been an enlisted man and was one of the Honourables. Even while SAJ Musa was alive and Gullit was in the Northern Jungle, Gullit had been in communication with RUF commanders. As early as July/August 1998, Superman spoke with Gullit through radio communication and told him not to relax, to push forward to weaken the positions of the enemy, as they must be prepared for a brigade to advance to Freetown.<sup>1471</sup> At the time of SAJ Musa's move to Colonel Eddie Town, Gullit briefed Bockarie and Issa Sesay about his military operations.<sup>1472</sup> Bockarie had also contacted Superman at Pumpkin Ground and Gullit at Lunsar in order to tell both to move on to Freetown.<sup>1473</sup>
502. Unlike SAJ Musa, Gullit and Sam Bockarie were good friends.<sup>1474</sup> The two had even travelled together to The Gambia during the Junta period.<sup>1475</sup> Gullit and Issa Sesay were also friends.<sup>1476</sup> Sesay even lied at his own trial about taking diamonds from Gullit in order to protect Gullit.<sup>1477</sup> Gullit was also a friend of Alfred Brown.<sup>1478</sup>
503. Gullit immediately reported the death of SAJ Musa to Bockarie.<sup>1479</sup> RUF around the country were pleased to learn the news of Musa's death and replacement by Gullit. TF1-375 testified of the reaction:

Some of the SLAs that were with us, they felt bad, and some of the RUF were happy because they said SAJ Musa was ambitious for power, like my commander Superman and other commanders. Komba Gbundema even said it openly.<sup>1480</sup>

504. Isaac Mongor when asked about his own reaction to the news testified, "Well, I also felt relieved. Actually I was happy when it happened." When asked why, he explained:

Because there was power struggle within the movement. SAJ Musa wanted to be the leader and Sam Bockarie also wanted to be the leader, so there was that

<sup>1471</sup> TF1-334, TT, 21 April 2008, pp. 8150-53.

<sup>1472</sup> TF1-334, TT, 22 April 2008, pp. 8216-18.

<sup>1473</sup> TF1-275, TT, 22 February 2008, p. 4549.

<sup>1474</sup> [REDACTED]; DCT-172, TT, 19 August 2010, pp. 46739, 46750.

<sup>1475</sup> DCT-172, TT, 23 August 2010, p. 46836.

<sup>1476</sup> DCT-172, TT, 8 July 2010, p. 44049 and 19 August 2010, pp. 46738-39. See also DCT-172, TT, 28 July 2010, p. 44815, where Sesay referred to "our friends, the AFRC guys."

<sup>1477</sup> DCT-172, TT, 19 August 2010, pp. 46741-42.

<sup>1478</sup> DCT-172, TT, 19 August 2010, p. 46739.

<sup>1479</sup> TF1-275, TT, 22 February 2008, p. 4560; TF1-360, TT, 6 February 2008, pp. 3217-20.

<sup>1480</sup> TF1-375, TT, 24 June 2008, p. 12593.

misunderstanding. And I did not have any good relationship with SAJ Musa and he was not working with us the way we expected like he used to do in Freetown at the time we were together. So when we heard that Gullit had taken over command we were happy because he had had a very good relationship with Sam Bockarie and they were doing things together. So we ensured that things went on well.<sup>1481</sup>

505. In sharp contrast to the policy under SAJ Musa which had prohibited any communication with Bockarie, Gullit established regular communication and kept Bockarie informed of all developments in the city.<sup>1482</sup> Gullit was also communicating with RUF Rambo, Superman and Issa Sesay.<sup>1483</sup> DAF testified that:

[I]t did not take up to an hour when one of the stations in Freetown did not call to Buedu directly, or Mosquito's station in Baud did not call one of the stations in Freetown directly to get an update there. It was constant communication that existed.<sup>1484</sup>

506. Bockarie advised Gullit to wait for reinforcements from Sesay's group and Gullit replied he would talk to his men. Bockarie ordered Isaac Mongor to go to Kono to pick up men to move to Freetown as reinforcements.<sup>1485</sup> Knowing that the AFRC/RUF had taken Makeni and was sending reinforcements, Gullit and others in the group discussed their options and decided to advance on the city and have the Sesay-led group meet them there.<sup>1486</sup> Issa Sesay and others testified that on 5 January 1999, ECOMOG still held positions not just in Freetown and Lungi but at Waterloo, Jui, Hastings and Tombo. Had it not been for the knowledge that the RUF was at their back in Makeni moving with reinforcements towards Freetown and in a position to block ECOMOG reinforcements to the city, it would have been suicidal for Gullit and his troops to enter

<sup>1481</sup> TF1-532. TT. 11 March 2008, p. 5818. See also TF1-375, TT, 24 June 2008, p. 12593: some RUF commanders were happy when SAJ was killed.

<sup>1482</sup> King Perry testified, "So where I was lodged with my security I put on the radio, so I used the communication set and informed Mosquito about everything from the time SAJ Musa entered Rosos. I compiled that information and sent it to him at about 12 o'clock midnight, and from that time every midnight I spoke to Mosquito. He used to monitor the radio and get all the information about everything that was happening in Sierra Leone and what was the contacts. From my radio, Alfred Brown used to come. Mosquito - sorry, Gibril Massaquoi himself was coming and had to send some more information about what had been happening and the discussion by Gullit, that was going on through my radio communication set." (TF1-360, TT, 6 February 2008, pp. 3228-29.) Both Mohamed Kabbah (TF1-568, TT, 15 September 2008, p. 16172) and Foday Lansana (TF1-275, TT, 22 February 2008, pp. 4559-61) testified to daily reports from Gullit's men in the city to Bockarie's station. See also TF1-274, TT, 3 December 2008, pp. 21602-05.

<sup>1483</sup> TF1-274, TT, 3 December 2008, p. 21605.

<sup>1484</sup> TF1-274, TT, 3 December 2008, p. 21589.

<sup>1485</sup> TF1-532, TT, 11 March 2008, pp. 5819, 5821.

<sup>1486</sup> TF1-360, TT, 6 February 2008, pp. 3218-21.



the city because all roads out of the Western Peninsula at this time were controlled by ECOMOG.<sup>1487</sup>

507. After establishing communication with Gullit, before the troops entered the city, Sam Bockarie went on international radio and promised that his men would enter Freetown within 72 hours.<sup>1488</sup>

#### VI.C. GULLIT ENTERS FREETOWN AND THE RUF “JUBILATES”

508. When Gullit captured State House, he immediately informed Sam Bockarie.<sup>1489</sup> Although Bockarie had advised Gullit to wait for AFRC/RUF reinforcements before attacking Freetown, the entire RUF was ecstatic to learn that their brothers had entered the capital. Isaac Mongor testified:

So we heard it over the communication set, when we heard that the men had entered. And the BBC also said it and they said the fighters, the RUF rebels, had entered Freetown. So we were happy and we were jubilating in all the areas, all the areas where we were.<sup>1490</sup>

509. TF1-174, who was in Makeni at the time Issa Sesay's troops controlled the city, testified:

Well, we were asked by the RUF to come and rejoice because Freetown was captured and that since they have removed the ECOMOG from Makeni and what they were telling us about their might has come true, so they are now going to rule the country Sierra Leone and so we should come out, and so we were out there dancing.<sup>1491</sup>

510. TF1-585 testified that after learning from Gullit that the troops had captured State House, Bockarie called the BBC to brag that he was a man of his word and that as he had threatened, his men had indeed entered Freetown.<sup>1492</sup> TF1-585 testified that Bockarie was happy when he said this and the many people around him on the veranda of Bockarie's home were “dancing around.”<sup>1493</sup>

<sup>1487</sup> See Exh. P-577, map marked by Sesay.

<sup>1488</sup> TF1-585, TT, 8 September 2008, p. 15707.

<sup>1489</sup> DCT-172, TT, 19 August 2010, p. 46774; [REDACTED]; TF1-274, TT, 3 December 2008, pp. 21564-65; TF1-275, TT, 22 February 2008, p. 4560; TF1-584, TT, 19 June 2008, pp. 12274-75.

<sup>1490</sup> TF1-532, TT, 11 March 2008, pp. 5822-23.

<sup>1491</sup> TF1-174, TT, 27 January 2009, p. 23706.

<sup>1492</sup> TF1-585, TT, 8 September 2008, p. 15719.

<sup>1493</sup> TF1-585, TT, 8 September 2008, p. 15719.

511. These Prosecution witnesses are corroborated by two Defence witnesses. When asked the RUF soldiers' reaction to hearing that Gullit's troops had entered Freetown, DCT-068 said, "There was jubilation."<sup>1494</sup> John Vincent, who was in Jojuima, testified, "So we were all jubilating when that particular invasion took place."<sup>1495</sup>
512. When Gullit radioed Bockarie to inform him that he had entered the city and captured State House without waiting for RUF reinforcements, Bockarie had no negative comment.<sup>1496</sup> Bockarie assured Gullit that his forces were close by and would reinforce him.<sup>1497</sup> Bockarie then informed Monrovia of his success, reporting first to Benjamin Yeaten.<sup>1498</sup> Two radio operators who were in Buedu on 6 January testified to Bockarie calling Charles Taylor on the satellite phone that day to inform him of the success.<sup>1499</sup> Bockarie reported to Taylor that "*our men*" had entered Freetown.<sup>1500</sup> During the conversation, Bockarie was laughing and saying, "Yes Sir, Yes Sir."<sup>1501</sup>

#### **VI.D. HOW THE RUF CONTRIBUTED TO THE FREETOWN INVASION**

513. The Freetown invasion of January 1999 was a joint RUF and AFRC operation. While the troops inside the city were commanded by Alex Tamba Brima (Gullit) and the majority of the commanders were SLAs, the RUF's contribution was more than substantial. As detailed in the following sections, the RUF provided four critical areas of support to the invasion.
514. First, the RUF component, which included many loyal AFRC fighters, led the nationwide offensive from the East to the West of the country that altered the military balance of forces in Sierra Leone and made it possible for Gullit's troops to enter Freetown. This joint force's capture of major ECOMOG bases and weaponry at Koidu and Makeni altered the balance of forces to benefit the Freetown attackers. The AFRC/RUF's capture of Makeni and other areas near the Western Peninsula allowed Gullit's troops to enter Freetown knowing that they would not be trapped by larger ECOMOG forces coming from Makeni or areas like Magburaka now under AFRC/RUF control. Further,

<sup>1494</sup> DCT-068, TT, 11 March 2008, p. 37145.

<sup>1495</sup> DCT-215, TT, 26 March 2010, p. 38134.

<sup>1496</sup> TF1-360, TT, 7 February 2008, p. 3385.

<sup>1497</sup> TF1-274, TT, 3 December 2008, p. 21569; TF1-360, TT, 7 February 2008, p. 3386.

<sup>1498</sup> TF1-585, TT, 8 September 2008, pp. 15721-22; TF1-274, TT, 3 December 2008, pp. 21582-83.

<sup>1499</sup> TF1-585, TT, 8 September 2010, pp. 15722-23; TF1-568, TT, 15 September 2008, p. 16178.

<sup>1500</sup> TF1-568, TT, 15 September 2008, p. 16178 (emphasis added).

<sup>1501</sup> TF1-568, TT, 15 September 2008, p. 16178.

the joint force was now in a position to move to block ECOMOG reinforcements likely to be sent from Guinea, Lungi and Port Loko in response to an attack on Freetown.

515. Second, while the forces in the city were commanded by SLAs and were in the majority former members of the army, the RUF made three significant contributions to this fighting force: communications, manpower and jet warnings. The Gullit-led forces depended upon alliance radio operators for their communications. The RUF also contributed significant experienced manpower to the group. These fighters were members of the Red Lion battalion which came with Gullit's forces from the North, RUF fighters freed from Pademba Road prison, bodyguards of the RUF radio operators, and a small but significant force commanded by Idrissa Kamara aka "Rambo Red Goat" which was sent by Issa Sesay and joined the fighters in the city, playing a key role in the atrocities. In addition to manpower, the RUF assisted the forces in Freetown by providing warnings of attacks from ECOMOG's most devastating weapon, the Alpha Jet. The RUF passed on warnings of jets approaching the city, allowing the forces to avoid being caught in the open.
516. Third, the RUF, including many loyal AFRC fighters, were significantly involved in the battle for Freetown, although the majority of its forces were attacking from outside of the city boundary and never successfully entered in force. RUF attacks on ECOMOG forces at strategic locations outside the city affected the battle inside. When he received word that Gullit's forces had entered Freetown, Bockarie ordered an attack that aimed to first take Port Loko and then move on to Lungi. Had this attack been fully successful, Bockarie's forces would have cut off the troops defending Freetown from any re-supply or reinforcements. While the joint forces were unable to fully capture Port Loko, they were sent to attack and enter Freetown.<sup>1502</sup> These troops succeeded in capturing Waterloo and forcing Guinean forces to withdraw to Port Loko, but they were unable to get past Nigerian forces at Jui and enter Freetown in force. Nonetheless, these attacks forced ECOMOG to divide their forces and efforts to deal with the threats from this joint force on and near the Western Peninsula. The joint force in Waterloo attacked Jui, shielding the back of the rebel force inside the city. The RUF attacks from the east, which included many loyal AFRC fighters, prevented ECOMOG from putting the

<sup>1502</sup> DCT-172, TT, 4 August 2008, p. 45433: "My Lord, I said Rambo was an RUF group. His going to Waterloo, RUF was fighting to go to Freetown also, because Freetown was the seat of power, the seat of government."

Gullit forces in a vise with ECOMOG attacks from both sides. This joint force holding Waterloo and Benguema allowed Gullit's forces to escape the city when reinforced ECOMOG forces turned the tide of battle.

517. Fourth, the troops in Freetown were taking orders from Sam Bockarie, Charles Taylor's favourite commander, who together with Taylor had planned this offensive hoping to capture Freetown. Gullit and the other SLA commanders recognized that at least since the Intervention, the RUF was the stronger part of the AFRC/RUF alliance with more manpower and access to military supplies through Charles Taylor. The evidence shows that Gullit and other commanders were in regular communication with Bockarie and implemented his orders during the attack, including orders that instigated many of the atrocities.
518. The evidence leaves no doubt that the January 1999 invasion of Freetown was carried out through coordination between and in the name of the AFRC/RUF alliance. The attackers' dependence on the RUF is self-evident in a call made by SLA officer FAT Sesay to the BBC on the very day the invaders captured the State House. In the broadcast, Exhibit P-279, Col. Sesay twice tells the BBC that the attackers were "a combined forces, a combined forces. We have the RUF, you have the AFRC."<sup>1503</sup>

#### Altering the military balance

519. The invasion of Freetown was made possible by the drastically altered military balance when AFRC/RUF rebel forces supplied by ammunition delivered through Taylor in Liberia took control of the major ECOMOG bases at Koidu and Teko barracks in Makeni. By late December, RUF forces had advanced westward from Kailahun district and had taken Makeni, Magburaka and Mile 91, while fighters from the North, led by SAJ Musa, avoided the main concentrations of ECOMOG strength and entered the Western Peninsula.<sup>1504</sup>
520. The AFRC/RUF offensive changed the military situation in the country as is strikingly illustrated by the maps marked by Issa Sesay. Exhibit P-574 shows the positions of the

<sup>1503</sup> Exhibits P-279A & P-279B, pp. 2, 4. Before this recording was available, A.B. Sesay had testified, "Well, that particular day we also heard FAT Sesay. He also went over the international media and confirmed that, yes, he is now based in State House and he's speaking from State House. He said that the commander that led the troop to Freetown was Tamba Alex Brima and that State House was under their full control and that he was asking that all military personnel should surrender." (TF1-334, TT, 22 April 2008, p. 8288.)

<sup>1504</sup> Issa Sesay testified that SAJ Musa's troops were using hit and run attacks rather than holding areas as they headed to Freetown (DCT-172, TT, 23 August 2010, p. 46834).

warring factions on 15 December 1998 before the attack was launched, and Exhibit P-577 identifies the positions of the various groups in the Western Area on 5 January 1999, the eve of the Freetown invasion. While the majority of the rebel forces were confined to the east of the country on 15 December, by 5 January 1999, the rebels had advanced westward, taking not only Koidu but Makeni, Binkolo, Magburaka and Mile 91, and destroying or scattering major ECOMOG forces protecting the western part of the country, including four mechanized battalions at Kono.<sup>1505</sup>

521. Huge amounts of ammunition and weapons were captured when the AFRC/RUF overran Koidu and Makeni, two main strongholds of ECOMOG. Exhibit P-93 lists items captured in Koidu town, Kimberlite, Sewafe and Masingbe up to 23 December 1998. The captured items include not only huge amounts of various types of both light and heavy weapon ammunition, but also three war tanks, a grenade launcher, a bazooka, a flame-thrower, seven RPG tubes, five 50-calibre guns, one incomplete "Chinese 50 calibre," 60, 62, 81 and 82mm mortar guns, two anti-aircraft guns, and two American GPMG guns.
522. Sesay's forces from Kono and Superman's troops from the Northern Jungle combined to attack and capture Makeni on 24 December 1998. The AFRC/RUF defeated two brigades of ECOMOG forces<sup>1506</sup> and captured or destroyed more ammunition, weapons and vehicles, including armoured vehicles, and many ECOMOG were killed.<sup>1507</sup>
523. The fighting in Kono, Makeni and other locations occupied and eventually destroyed or severely damaged much of ECOMOG's strength in Sierra Leone. Isaac Mongor testified:

Well, I want the Court to know that ECOMOG was also present in other parts of the country, that is Sierra Leone. They were in Kenema and they were in Joru where I also went to attack. They were also in Kono when Issa Sesay and others attacked them and pushed them out of there. They were in Makeni when Superman and Rambo and others attacked them and they pushed them out of there. And they were at Njaiama Nimikoro when Akim Turay attacked them and pushed them out of there. So the ECOMOG forces were in all of those areas and we engaged them. So the men who were advancing towards Freetown, they were also able to make their move easily and enter Freetown.<sup>1508</sup>

<sup>1505</sup> See Exh. D-9, pp. 00009667-68.

<sup>1506</sup> TF1-375, TT, 24 June 2008, pp. 12589-99.

<sup>1507</sup> TF1-174, TT, 27 January 2009, p. 23696; TF1-375, TT, 24 June 2008, p. 12560; TF1-263, TT, 6 October 2008, p. 17973; DCT-172, TT, 23 August 2010, p. 46825.

<sup>1508</sup> TF1-532, TT, 11 March 2008, pp. 5830-31.

524. Makeni, less than a three-hour drive from Freetown,<sup>1509</sup> was crucial to ECOMOG's strength in Sierra Leone, particularly after the fall of Koidu. The loss of Teko Barracks, vehicles, weapons, ammunition and troops when Makeni fell to the AFRC/RUF forces on 24 December 1998 had a major impact on the resources available to defend Freetown at the time of the 6 January invasion, two weeks later.
525. Immediately after establishing communication with Gullit's forces poised to attack the city, Sam Bockarie ordered his forces in Makeni to attack Port Loko and Lungi. Issa Sesay testified that the attack on Port Loko was in the first week in January 1999 and a BBC broadcast from 4 January 1999 indicates that ECOMOG controlled Port Loko after four days of battle,<sup>1510</sup> showing that Bockarie's forces had launched their attack on Port Loko<sup>1511</sup> after the death of SAJ Musa but before Gullit's troops had entered Freetown.
526. A.B. Sesay, who was with the forces that attacked Freetown in January, testified:
- Well, as I earlier said, it was an operation that was planned. The RUF, SLAs who were in the eastern part around that Kono area moved, those of us who were in the north moved and those of us in that Kailahun-Daru axis also moved. So whilst we were attacking they were simultaneously attacking. So it was a strategy that we used so that the ECOMOG would not reinforce each other in any other position. So those who were in Kono would not reinforce those in Makeni. Those who were in Daru would not reinforce those who were in Kenema. Those who were within Benguema would not be able to reinforce because we had destabilised them in Freetown. So this was the strategy that we used and this was what Mosquito was telling Gullit. He said now that the men were pushing to ensure that they weakened ECOMOG they would come and reinforce us later and we will all bulldoze our way to Freetown.<sup>1512</sup>
527. When planning attacks, Bockarie and his commanders also planned how to block or ambush enemy forces expected to come to the defence of their comrades in the target location. For example, Issa Sesay testified that when planning the December 1998 attack on Koidu, he ordered Morris Kallon to set up an ambush at Gold Town, anticipating ECOMOG would send reinforcements from Makeni.<sup>1513</sup> If the RUF expected reinforcements from Makeni to affect a battle in Koidu, they certainly would expect that the ECOMOG forces would be a factor in any battle in Freetown. After

<sup>1509</sup> TF1-174, TT, 27 January 2009, p. 23663; TF1-375, TT, 24 June 2008, p. 12599.

<sup>1510</sup> Exh. P-347B, p. 23605.

<sup>1511</sup> Issa Sesay testified that the plan was that once Port Loko was captured, the troops would move on to Lungi (see DCT-172, TT, 23 August 2010, p. 46836). See also Sesay's Salute Report, Exh. D-84, p. 00007764, which discusses how Rambo attacked Port Loko and shared the town with the enemy for seven days.

<sup>1512</sup> TF1-334, TT, 22 April 2008, p. 8254.

<sup>1513</sup> DCT-172, TT, 19 August 2010, pp. 46717-18.

Gullit reported that his troops had entered Freetown, Bockarie ordered an attack to capture Port Loko and Lungi in order to cut off ECOMOG reinforcements in the battle for Freetown.<sup>1514</sup> Had the AFRC/RUF succeeded in taking Port Loko and Lungi, ECOMOG would not have been able to re-supply and reinforce its forces in Freetown and probably would not have been able to turn the tide of battle during the Freetown invasion. Although unsuccessful, the attack demonstrates the RUF command synchronized attacks to aid the invaders inside the city.

#### RUF contributions inside the city

528. The RUF made further contributions to the attack in Freetown by assisting forces inside the city. This assistance took three principal forms: communications, alerts of air attacks, and manpower.

#### RUF Role in Communications

529. Sam Bockarie sent radio operators Alfred Brown and King Perry to join SAJ Musa in mid-1998.<sup>1515</sup> Issa Sesay agreed that this was a critical contribution as communications were essential in order for a commander to understand what various groups were doing.<sup>1516</sup>

#### 448 Warnings of Alpha Jet Attacks

530. The RUF's monitoring team based in Buedu included SLA radio operators trained to decode ECOMOG Morse Code who tracked messages about jets and transmitted alerts (448) to fighters on the ground.<sup>1517</sup> There was also a system of warnings or "448 calls" from Liberian radio operators in Monrovia<sup>1518</sup> to radio operators in Sierra Leone, which was of great assistance to Gullit's troops in Freetown. A.B. Sesay testified that radio messages ("448" codes) were sent from Kailahun to warn of ECOMOG jets coming from Liberia as ECOMOG had a base in Liberia. Dauda Aruna Fornie (DAF), who was in the radio communication room with Bockarie in Buedu, confirmed this monitoring and transmission of information:

<sup>1514</sup> DCT-172, TT, 23 August 2010, p. 46836: "At that moment Bockarie said since Gullit and others have entered Freetown, we too - the RUF too should move through Port Loko to get Lungi."

<sup>1515</sup> See TF1-360, TT, 5 February 2008, pp. 3175-76 and 6 February 2008, pp. 3184-85. Per King Perry's 5 February 2008 testimony on pp. 3172 and 3176, he and Alfred Brown went to Koinadugu more than two months after Superman left to join SAJ Musa after the Fitti Fatta mission.

<sup>1516</sup> DCT-172, TT, 18 August 2010, p. 46632.

<sup>1517</sup> TF1-516, TT, 8 April 2008, pp. 6943-47.

<sup>1518</sup> TF1-585, TT, 5 September 2008, pp. 15599-601 and 8 September 2008, pp. 15628-31.

That was what we did, to listen to ECOMOG communications, decode those communications and take those decoded messages to the control station, or the transmitting station, where they would send them directly to the people concerned (...) they will send that message to that area so that everybody in that area would be red alert.<sup>1519</sup>

531. DAF also gave two concrete examples where monitoring of ECOMOG communications ultimately enabled the AFRC/RUF fighters on the ground in Freetown to avoid Alpha Jet attacks.<sup>1520</sup>

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>1521</sup>

### RUF Manpower inside Freetown

#### *Radio Operators, Bodyguards, and Stragglers*

532. While the troops inside Freetown in January 1999 were led by former SLA soldiers, different groups of RUF and Liberian soldiers sent by Taylor played a substantial role in the fighting and particularly in the crimes committed as the tide of battle turned against the invading forces.<sup>1522</sup>

533. The first group of RUF were radio operators Alfred Brown and King Perry and their bodyguards. The second group were RUF fighters released from Pademba Road prison. The third group were RUF and Liberian fighters in the Northern Jungle who were formed into the Red Lion battalion under the command of "05." The fourth group of RUF manpower inside Freetown was a predominantly RUF force sent into Freetown by Issa Sesay. When the RUF was unable to get past Nigerian forces at Jui protecting the

<sup>1519</sup> TF1-274, TT, 3 December 2008, pp. 21563, 21566-67.

<sup>1520</sup> TF1-274, TT, 3 December 2008, pp. 21596-97: "I can remember exactly there were two air mission requests which the monitoring station monitored directly from the ECOMOG net which was decoded and I took the message to Bravo Zulu 4. When I got there with the message the operator on duty transmitted that message to Freetown. And that had links about – ECOMOG saying that they suspected that there was a large concentration of AFRC/RUF forces that were close to Tower Hill and Ugun, so the air wing should send an air raid to bomb the RUF positions. Those were the two particular – those two particular areas. And indeed the stations, the two RUF stations that were in those two areas that I have mentioned were fortunate to be on the air and they received – I mean, the two RUF radio stations received the message and they acted upon it. I mean, the RUF fighters were able to circulate it very fast and acted on it so by the time the jet came the fighters – the RUF fighters had already changed their particular location where the air mission request had called for."

<sup>1521</sup> [REDACTED]  
<sup>1522</sup> Exh. P-364 provides further corroboration of witness testimony regarding the presence of RUF in the Freetown invasion forces. On the third page (ERN 00007804), the prisoners listed at numbers 2, 5, 6 and 7 were all captured in Freetown; Exh. P-349A includes at the beginning of the 7 January 1999 broadcast a report from a journalist inside Freetown who stated that the attackers were "a mixture of the RUF and the, the Sierra Leone National, the disbanded Sierra Leone Army, but the majority of them in the centre of town is the Sierra Leone Army." starting at 0:44. See also Exh. P-349B, the transcript of this report.



bridge there, Sesay sent a small, predominantly RUF force commanded by Rambo Red Goat to reinforce the Freetown invaders.

534. Sam Bockarie sent Alfred Brown and King Perry along with security personnel to join SAJ Musa and Gullit in the North.<sup>1523</sup> A larger group of individual RUF members who had been separated from the forces during the Intervention rejoined the rebel forces led by SAJ Musa and Gullit while the forces were in the North and on the way to Freetown. King Perry testified:

During the period of the intervention from Freetown to Makeni not everybody was able to follow us to go to the jungle. For example, back in Kabala some people left their deployment in other villages and they found it difficult to go to the towns and, therefore, they hid themselves in bushes so they were staying there. Therefore, they divided themselves into groups and then when they heard that we were going along attacking areas from Koinadugu to Rosos a good number of the RUF came back and joined us. In fact, the number that we now reported to Gullit, we were more than 500. The number increased to 500 and most of the men who came, they had guns, and we welcomed them to join us. So that was how the number increased.<sup>1524</sup>

#### *Red Lion Battalion*

535. The Red Lion battalion was comprised of RUF, SLA, STF and NPFL/AFL soldiers. Several insider witnesses including A.B. Sesay,<sup>1525</sup> Alice Pyne,<sup>1526</sup> TF1-375,<sup>1527</sup> and King Perry,<sup>1528</sup> testified that the Red Lion battalion included RUF and Liberian fighters. Former child soldier TF1-143 also testified that the troops in Eddie Town in the Northern Jungle that eventually came to Freetown were mixed AFRC, RUF and Liberian fighters and included a group called the Red Lion group.<sup>1529</sup> Witness TF1-028 testified that reinforcements of about 100 fighters, a majority of which were RUF, arrived at the Bombali axis in late 1998 and they were called the “Red Lion.”<sup>1530</sup> She

<sup>1523</sup> TF1-360, TT, 6 February 2008, pp. 3183-85.

<sup>1524</sup> TF1-360, TT, 6 February 2008, p. 3200.

<sup>1525</sup> TF1-334, TT, 22 April 2008, pp. 8199-8200, 8202-03 and 28 April 2008, pp. 8674, 8759-65 and 29 April 2008, pp. 8785-86: A.B. Sesay gave evidence that he learned about the composition of Colonel O-Five's group at a muster parade in Colonel Eddie Town, at which he was present, and that the group included about 30 STF, 20 former Liberian NPFL who had gone through AFL training and 30 RUF fighters as well as a platoon of RUF. The witness explained that the former NPFL fighters had integrated into the AFL. He testified that some of the men who came with O-Five's group were Foyoh, Bobby Sherrif, Med Bajehjeh (SLA), Captain Stagger (RUF), Washington and Dukulay (both Liberian STF), and the group was well armed and brought submachine guns, 60 millimetre mortar, AKs, G3s and other rifles, and LAR.

<sup>1526</sup> TF1-584, TT, 19 June 2008, p. 12259.

<sup>1527</sup> TF1-375, TT, 24 June 2008, p. 12572-73.

<sup>1528</sup> King Perry Kamara names Komba Gbundema's and Superman's bodyguards as forming part of the Red Lion Battalion. See TF1-360, TT, 6 February 2008, pp. 3187-88.

<sup>1529</sup> TF1-143, TT, 5 May 2008, p. 9019.

<sup>1530</sup> TF1-028, TT, 7 May 2010, pp. 9210, 9218.

testified that all the junta fighters were happy about this because they had also received enough ammunition to go to Freetown.<sup>1531</sup>

536. Alice Pyne testified that Superman's group went to Koinadugu and there they met Senegalese, who had thirty armed men with him.<sup>1532</sup> Senegalese told the witness that he had been sent to Sam Bockarie by Charles Taylor and that Sam Bockarie had sent them on to Superman.<sup>1533</sup> The witness learned that this Red Lion battalion had committed crimes in the Freetown offensive.<sup>1534</sup>
537. Alusine Conteh, a victim of double amputation, also provided corroboration that the Freetown invaders included RUF. He testified that he believed the group he encountered on his street the first week of the invasion was RUF. He added that one boy, Kelle, said he had been captured 8 years before - which would only be consistent with having been captured by the RUF.<sup>1535</sup>

*Prisoners from Pademba Road Prison*

538. When the forces led by Gullit entered Freetown on 6 January, they went immediately to Pademba Road prison where Foday Sankoh was believed to be held. Although Sankoh had been moved to a Nigerian ship off the coast, the RUF and AFRC fighters being held in the prison were released, including Gibril Massaquoi, one of the most ruthless and highest-ranking RUF commanders.<sup>1536</sup> A.B. Sesay testified that Massaquoi "was one of the senior commanders who had manpower. He had some boys who had been released from Pademba Road who were with him. So, he maintained his command as colonel and he had men under his control in Freetown."<sup>1537</sup>
539. Bockarie contacted Massaquoi by radio after his release when he joined the troops fighting in Freetown. Bockarie gave Massaquoi advice and encouragement.<sup>1538</sup> O-Five, the commander of the Red Lion battalion which was fighting in Freetown alongside Gullit, communicated with Superman and confirmed to him that Massaquoi

<sup>1531</sup> TF1-028, TT, 7 May 2008, pp. 9206-07.

<sup>1532</sup> TF1-584, TT, 19 June 2008, pp. 12253-54.

<sup>1533</sup> TF1-584, TT, 19 June 2008, pp. 12258-59.

<sup>1534</sup> TF1-584, TT, 23 June 2008, pp. 12457-58: "Yes, I heard that they burnt down houses, they killed civilians and they looted properties and some of which I saw them bring and mostly they brought monies because when they came and when - when they all moved from there, they told me that it was not possible for somebody to carry a big load, so all they wanted most times was money. So it was money that I saw them brought."

<sup>1535</sup> TF1-278, TT, 30 January 2009, p. 24004.

<sup>1536</sup> TF1-334, TT, 22 April 2008, pp. 8282-84 and 29 April 2008, pp. 8934-35.

<sup>1537</sup> TF1-334, TT, 29 April 2008, p. 8934.

<sup>1538</sup> Exhibit D-9.

was fighting with them in downtown Freetown “because he (O-Five) said the fighting was intense. And Superman too asked him for Gibril Massaquoi and he said that Gibril Massaquoi was with them, that is O-Five and others.”<sup>1539</sup> Massaquoi not only fought with the forces inside the city but also acted as spokesperson for them with the international media. Exhibit P-111 reports a BBC telephone interview with Massaquoi on the day of the invasion.

*Rambo Red Goat*

540. When the AFRC/RUF was unable to defeat ECOMOG forces defending the approaches to Freetown at Jui and Kossoh town, Issa Sesay gave an order for a small detachment of men to enter the city using a bypass to the south. He chose Idrissa Kamara, known as Rambo Red Goat, to lead the group because Kamara was an SLA soldier known to commanders inside the city, but the group itself included many RUF fighters.<sup>1540</sup> Issa Sesay confirmed in his testimony that “Red Goat Battalion” was made up of RUF fighters.<sup>1541</sup>
541. Komba Sumana’s testimony corroborates the fact that some RUF fighters from the group that captured Makeni joined the AFRC-led forces inside Freetown. Sumana testified that Issa Sesay ordered a group of RUF, including child soldiers, to board three trucks that were to “take reinforcements to Freetown.”<sup>1542</sup> While the truck including Sumana went only to Lunsar, the two others continued on, including Sumana’s friend “Rubber-Rubber.” When they later met in Makeni, Rubber-Rubber told Sumana:
- [T]hey went but they stopped at Waterloo. He said not all of them were able to go to Freetown. He said they took the - they used a bypass and went to Freetown. He said when they went they met Five-Five and others. At the time that they went SAJ Musa had already died.<sup>1543</sup>
542. Sumana’s testimony was further corroborated by TF1-174, who testified that on 28 December 1998, he met Issa Sesay in the centre of Makeni and was later stopped by a group of fighters in a Mercedes-Benz:

<sup>1539</sup> TF1-584, TT, 19 June 2008, pp. 12283-84.

<sup>1540</sup> TF1-375, TT, 24 June 2008, pp. 12608-11: “Issa Sesay then appointed – said Rambo Red Goat because he said he knew his brothers in the city well and he was once an SLA soldier. He said he should lead the troops to go and join the others in Freetown and that was they did.” The witness also explained that the troops led by Rambo Red Goat were about 60 to 65 well armed fighters from the RUF, SLA and STF troops.

<sup>1541</sup> DCT-172, TT, 9 July 2010, p. 44167.

<sup>1542</sup> TF1-263, TT, 6 October 2008, p. 17978.

<sup>1543</sup> TF1-263, TT, 6 October 2008, p. 17979.

They stopped me and I stopped. There were about six of them dressed in black and military attires. So they asked me whether I was happy about what was going on. I told them that if I were not happy I should not have been in Makeni. Then one of them pointed to a vehicle in front of them loaded with young men and young women, that very soon we will hear what will come out of Freetown, even the vehicle ahead was proceeding to Freetown.<sup>1544</sup>

543. The witness also provided the names of four RUF children who told him they were fighting in Freetown in January 1999.<sup>1545</sup>
544. Issa Sesay, who denies all responsibility for his crimes, including those for which he was convicted and those testified to by other Defence witnesses in this trial, also denied all of his links to the Freetown invasion. Sesay told the Court that Rambo Red Goat was an SLA with Brigadier Mani's group in Makeni but claimed not to know that Rambo Red Goat's real name was Idrissa Kamara or Kamara.<sup>1546</sup> However, Sesay was again caught in his own contradiction, as he had told the Court during direct examination that Idriss Kamara was linked to the Red Goat battalion who was with Brigadier Mani.<sup>1547</sup> After this contradiction was raised, Sesay compounded his lie in re-direct by claiming it was Defence counsel who told him about Prosecution witnesses and told him that Rambo Red Goat was Idrissa Kamara.<sup>1548</sup> However, Rambo Red Goat did not testify in the trial and one must presume that Defence counsel did not give witnesses information in proofing sessions. Moreover, the attempt to explain away the contradiction in re-direct by blaming Defence counsel again contradicted what Sesay had said in cross-examination when he had then explained he "came to know his name (Idrissa Kamara) during the detention when I was with his commanders."<sup>1549</sup> Sesay's numerous contradictions were obvious attempts to mislead the Court. Sesay knew that he sent Idrissa Kamara with RUF fighters to reinforce Gullit's forces in the city, exactly as testified to by multiple Prosecution witnesses. He lied because he realized this action proves the complicity of the RUF and of himself in the Freetown invasion, a fact he has long struggled to deny.

<sup>1544</sup> TF1-174, TT, 27 January 2009, pp. 23692-94.

<sup>1545</sup> TF1-174, TT, 27 January 2009, pp. 23707-09; [REDACTED].

<sup>1546</sup> DCT-172, TT, 19 August 2010, p. 46800-01.

<sup>1547</sup> DCT-172, TT, 28 July 2010, p. 44916.

<sup>1548</sup> DCT-172, TT, 27 August 2010, pp. 47333-34.

<sup>1549</sup> DCT-172, TT, 23 August 2010, p. 46810.

545. Rambo Red Goat managed to use a road at the back of Jui, cross the river from the upper side and enter Freetown to reinforce Gullit.<sup>1550</sup> A.B. Sesay testified he and others were sent to receive the group in Allen Town.<sup>1551</sup> Although Rambo Red Goat was an SLA soldier, both A.B. Sesay and TF1-375 testified that during the in-fighting between Superman and SAJ Musa, Rambo Red Goat fought on the side of Superman, the RUF commander.<sup>1552</sup> The Rambo Red Goat group also brought ammunition from the RUF to the fighters in the city.<sup>1553</sup>
546. King Perry testified that when ECOMOG began to turn the tide of battle in the city against the invaders, Gullit and others retreated. However, two groups that stayed in the city to carry out Bockarie's orders to burn, destroy and make the area fearful were the Rambo Red Goat group and a portion of the Red Lion battalion led by "Striker."<sup>1554</sup> Thus during this period at the end of the invasion when so much havoc and terror were inflicted on the citizens of Freetown, RUF manpower played a critical role.

#### RUF attacks from outside the city

547. At the same time that ECOMOG was trying to deal with the invaders inside the city limits, much of the ECOMOG forces were struggling to fend off attacks on the city outskirts where the RUF was trying to link up with their brothers inside Freetown and block ECOMOG reinforcements from reaching Freetown.
548. Issa Sesay testified that when Bockarie learned that Gullit had entered Freetown, "At that moment Bockarie said since Gullit and others have entered Freetown, we too - the RUF too should move through Port Loko to get Lungi."<sup>1555</sup> Sesay testified that the RUF attempted to take Lungi passing through Port Loko but were blocked when their troops were unable to take all of Port Loko.
549. Bockarie also ordered Rambo to attack Waterloo while the invasion of Freetown was ongoing. When asked by the Presiding Judge why RUF Rambo had attacked Waterloo during the Freetown invasion, Issa Sesay testified, "RUF was fighting to go to Freetown

<sup>1550</sup> TF1-375, TT, 24 June 2008, pp. 12610-12.

<sup>1551</sup> TF1-334, TT, 23 April 2008, p. 8326. Issa Sesay corroborated this when he said another witness, "Alabama," had testified to being part of the receiving group for Red Goat at Allentown and had explained that by this time the forces in the city were in retreat (see DCT-172, TT, 19 August 2010, pp. 46795, 46800).

<sup>1552</sup> TF1-334, TT, 23 April 2008, pp 8321-22; TF1-375, TT, 24 June 2008, pp. 12579-80.

<sup>1553</sup> TF1-334, TT, 24 April 2008, p. 8433.

<sup>1554</sup> TF1-360, TT, 6 February 2008, pp. 3237-39.

<sup>1555</sup> DCT-172, TT, 23 August 2010, p. 46836. However, as noted above, the attack on Port Loko occurred during the first days of January before Gullit entered Freetown. Exh. P-347B, p. 23605.

also, because Freetown was the seat of power, the seat of government.”<sup>1556</sup> Sesay acknowledged that the RUF had attacked and eventually forced the withdrawal of Guinean forces at Hastings. But Sesay testified that his forces were unable to enter Freetown because they could not get past Nigerian forces at Jui which blocked the bridge for the main coastal road into the city.<sup>1557</sup> Waterloo, Hastings and Jui are all on the Western Peninsula and just outside the city of Freetown. The attacks by Sesay’s forces on the Guineans at Hastings and the Nigerians at Jui kept the AFRC/RUF forces inside the city from having to fight on two fronts and divided the ECOMOG troops on the Western Peninsula, forcing them to deal with the joint forces in addition to the Gullit-led forces in the city.

550. Exhibit P-149 is a report sent to Issa Sesay by Lt. Raymond Kartewu, a Black Guard Adjutant, on 21 January 1999.<sup>1558</sup> TF1-567 recognized the signature on the report and the report itself. He had seen the report before it was handed over to Issa Sesay and confirmed its contents.<sup>1559</sup> The report details how in the early morning of 7 January 1999, the RUF attacked Guinean forces at Waterloo who were rescued the next day by a “thick enemy convoy” from Port Loko which withdrew and left behind weapons and ammunition.<sup>1560</sup> The entry in P-149 for 9 January states that after deploying at Hastings, the RUF discovered enemies at Jui and Kossoh town and says, “we every day attack these guys.” The report explains that the RUF was unable to capture these areas because of the heavy air support for the defenders and “the helicopter which landed every day at the point had reinforced the enemies with both armament and manpower.”<sup>1561</sup>
551. Exhibit P-149 indicates that on 15 January, a joint operation was planned with the men in Freetown to attack Jui and Kossoh town but that the men from Freetown never turned up.<sup>1562</sup> TF1-567 testified that Issa Sesay had ordered Boston Flomo (nicknamed both

<sup>1556</sup> DCT-172, TT, 4 August 2010, p. 45433.

<sup>1557</sup> DCT-172, TT, 19 August 2010, pp. 46751, 46783.

<sup>1558</sup> The document was seized from the RUF Kono office in 2001 (see Tariq Malik, TT, 19 January 2009, p. 22981).

<sup>1559</sup> TF1-567, TT, 4 July 2008, p. 12938.

<sup>1560</sup> Although Issa Sesay disputed the authenticity of this and many other Prosecution and Defence exhibits, he corroborated much of the information in Exh. P-149 (see DCT-172, TT, 19 August 2010, p. 46782).

<sup>1561</sup> It was exactly to prevent this type of reinforcement with men and materials flown into Lungi or coming from Guinea through Port Loko that Bockarie had ordered Superman to attack Port Loko and Lungi when Gullit first contacted him.

<sup>1562</sup> Perry Kamara also testified that there was a joint operation planned to attack Kossoh town with the men inside the city and the men from Waterloo (TF1-360, TT, 6 February 2008, p. 3234).

“Rambo” and “Van Damme”) to link up with Gullit’s group and confirmed that the RUF attacked Kossoh town in the hopes of doing so, but the mission was unsuccessful.<sup>1563</sup> King Perry stated in his testimony that the Gullit group in the city had received a message to try to link up with the RUF group from Waterloo at Kossoh town.<sup>1564</sup>

552. The AFRC/RUF attacks on ECOMOG positions on the outskirts of Freetown diverted ECOMOG resources from driving Gullit’s forces from the city. As P-149 indicates, the troops at Jui and Kossoh town, regularly reinforced by helicopter, Alpha Jets, and a heavily armed convoy from Port Loko, were all deployed against the AFRC/RUF forces at Waterloo and Hastings, preventing these ECOMOG forces from engaging the rebels inside the city.

Freetown forces implemented Bockarie’s orders

553. From the moment they entered Freetown on 6 January 1999, the attacking forces coordinated with Sam Bockarie and implemented his orders. It was clear to Gullit and his comrades that their forces would not be capable on their own of defeating ECOMOG and the CDF and that their ability to take over the country or negotiate a favourable cessation of hostilities depended on allying themselves with the RUF. The RUF had greater manpower than the AFRC and could replenish military supplies through Charles Taylor, while the AFRC soldiers had no independent outside support. Unlike the ambitious SAJ Musa, Gullit and his comrades were willing to subordinate themselves to Bockarie. The evidence shows that during the Freetown invasion, both the AFRC and RUF forces inside the city implemented instructions from Sam Bockarie. Much of the horrendous violence inflicted on the people of Freetown was the result of Bockarie’s intentional campaign to use terror to punish his enemies and to force negotiations that would favour the RUF.
554. During the invasion, Bockarie spoke on the BBC and referred to “my commander, Brigadier Gullit.”<sup>1565</sup> Throughout the invasion, Bockarie was speaking to the

See also Exh. P-149, p. 00025495.

<sup>1563</sup> TF1-567, TT, 4 July 2008, pp. 12938-39. See also Exh. P-149.

<sup>1564</sup> TF1-360, TT, 6 February 2008, p. 3234.

<sup>1565</sup> TF1-275, TT, 22 February 2008, pp. 4555-59: “I can remember on one occasion when Sam Bockarie was in conversation on the BBC with Robin White, he made him to understand that he has received information, a radio report, from Freetown from his commander, Brigadier Gullit, that was in Freetown and that he got another information from his commander that Tongo had fallen to the RUF and the junta.” See also Exh. P-85B.

international press and talking about “his troops” in the city.<sup>1566</sup> Gullit openly deferred to Bockarie. DAF testified that in radio conversations he monitored, Gullit referred to Bockarie as “Sir” and at times as “Master.”<sup>1567</sup>

555. Gullit took direct orders from Bockarie throughout the invasion. For example, Bockarie gave an order for the execution of Martin Moinama, a former RUF radio operator who had testified in Foday Sankoh’s treason trial, and Gullit had Moinama killed.<sup>1568</sup> Bockarie also told Gullit he “had no prison for ECOMOG” and ordered the execution of captured ECOMOG prisoners. Captured ECOMOG were killed under the cotton tree near State House.<sup>1569</sup>
556. Bockarie passed on to Gullit instructions he had received from Charles Taylor through Benjamin Yeaten. For example, Yeaten told Bockarie that the “Pa” (Taylor) wanted him to have the high-profile prisoners who were released from Pademba Road prison during the invasion taken to RUF-controlled areas.<sup>1570</sup> Bockarie passed the instruction on to Gullit, who implemented it.<sup>1571</sup>
557. Bockarie gave orders to Gullit throughout the invasion on how to manoeuvre and capture areas.<sup>1572</sup> At the time the troops were being pushed out of the city, Bockarie ordered Gullit not to challenge the ECOMOG troops directly as long as they were too heavy for them.<sup>1573</sup>
558. Bockarie gave multiple and explicit orders to Gullit to commit acts of terror in Freetown. Alice Pyne testified:

And when he said that fighting was going on in Freetown, Sam Bockarie told him that if the men, that is the ECOMOG, forced Gullit and others out of Freetown, they should burn the fucking place and that they should not spare anything. He said that verbally.<sup>1574</sup>

Gullit responded to Bockarie’s order by saying, “Yes, sir.”<sup>1575</sup>

<sup>1566</sup> See for example Exh. P-111, p. 1.

<sup>1567</sup> TF1-274, TT, 3 December 2008, p. 21604.

<sup>1568</sup> TF1-275, TT, 22 February 2008, p. 4562. See also TF1-584, TT, 20 June 2008, p. 12343.

<sup>1569</sup> TF1-360, TT, 6 February 2008, pp. 3230-31.

<sup>1570</sup> TF1-274, TT, 3 December 2008, pp. 21586-89.

<sup>1571</sup> TF1-360, TT, 6 February 2008, p. 3253-54; TF1-274, TT, 3 December 2008, pp. 21586-89; TF1-568, TT, 15 September 2008, pp. 16171, 16179.

<sup>1572</sup> TF1-516, TT, 8 April 2008, pp. 6942-47.

<sup>1573</sup> TF1-568, TT, 8 September 2008, p. 15726.

<sup>1574</sup> TF1-584, TT, 19 June 2008, pp. 12281-82; about the tone of Bockarie, the witness said: “He was angry as he spoke. He was speaking with power. When he spoke, you knew that he was angry.”

<sup>1575</sup> TF1-584, TT, 19 June 2008, p. 12282.



559. TF1-516 heard Bockarie tell Gullit, "If the pressure is mounted on you, burn down the fucking place and try retreating by the peninsula."<sup>1576</sup>

560. TF1-585 testified that when the tide of battle turned against the invaders, Bockarie gave instructions to Gullit on the withdrawal:

He said as long as the troop was too heavy for them they should not challenge them. they should pull out of the town, but before they should pull out of the town they should kill many people and burn down many houses before they should leave the town. He said 'If any bush shake, fire should blaze', but they should leave the town.<sup>1577</sup>

561. Mohamed Kabbah heard Bockarie order Gullit "to make the area fearful" which, from Kabbah's understanding, meant to destroy it completely.<sup>1578</sup> DAF, one of Bockarie's radio operators in Buedu at the time of the invasion, testified that he monitored a live conversation between Gullit and Bockarie in which direct instructions were given for the troops to commit atrocities:

Mosquito was giving direct instructions to Gullit for Gullit to - for Gullit to tell the men, I mean the RUF and the AFRC combatants, to cause a lot of mayhem in the city. That is like to destroy some important government buildings and to tell people to take their hands off the war and to cause real damage whereby the international community - whereby the international community would show more concern about the RUF until they released Foday Sankoh. He said if it is possible - Mosquito said if it is possible to chop off anybody's arm, he said - no. He said if it is possible to give anybody short sleeves or long sleeves, meaning to amputate anybody, he said that wouldn't be any problem. He said that they should raise alarm. He said Gullit and others should raise alarm to the level of the international community so that they can come in.<sup>1579</sup>

562. Foday Lansana heard Bockarie say over the radio:

Gullit, if it causes you to kill all the civilians, burn all the houses where you are, just so that you will not leave Freetown, you should go ahead and make sure that you maintain where you were. You should chase whosoever would want to chase you. You know that Freetown is surrounded with water. You should chase them into the water. Burn any house. You should kill and make yourselves fearful. Amputate arms. The civilians, let them go to the enemy. They will know that we are on something serious.<sup>1580</sup>

563. King Perry, with the troops inside Freetown, heard Bockarie order Gullit to "make Freetown more fearful than before" which the witness knew "was to destroy, kill,

<sup>1576</sup> TF1-516, TT, 8 April 2008, p. 6935.

<sup>1577</sup> TF1-585, TT, 8 September 2008, p. 15726.

<sup>1578</sup> TF1-568, TT, 15 September 2008, p. 16171

<sup>1579</sup> TF1-274, TT, 3 December 2008, p. 21590.

<sup>1580</sup> TF1-275, TT, 22 February 2008, p. 4561.

amputate, destroy bridges, set road blocks” and that Bockarie also gave instructions specifying which areas should be attacked, including Kissy Terminal refinery, which was burnt.<sup>1581</sup>

564. Gullit obeyed the order of destruction given by Bockarie. A.B. Sesay was present when Gullit reported to Bockarie that he would order his men to start the operation to burn down and capture people in Freetown, as well as when Gullit ordered senior commanders to start distributing petrol to the forces that were in Freetown so they could start burning.<sup>1582</sup> Foday Lansana, who was monitoring for Superman outside Freetown, said that Superman’s bodyguard, CY, confirmed that the instruction about making things fearful had been given.<sup>1583</sup>

#### **VI.E. JOINT AFRC/RUF ATTEMPTS TO RE-ENTER FREETOWN**

565. The failure of Bockarie’s forces to capture Lungi allowed ECOMOG to bring reinforcements into the battle for Freetown.<sup>1584</sup> With Bockarie’s forces unable to enter Freetown because of the reinforced Nigerian defenders at Hastings and Jui,<sup>1585</sup> and with the ECOMOG forces in the city on the offensive, Gullit’s forces were ordered by Bockarie to withdraw and re-organize for a new attack.<sup>1586</sup> Alice Pyne testified that Bockarie ordered Superman to stay around Freetown “to ensure there is a safe corridor for those coming from Freetown, because they were now in disarray in Freetown.”<sup>1587</sup> Pyne explained, “we created a safe area, that was Yams Farm, for ECOMOG not to be able to base there, so those who would be coming from Freetown would come and join us safely.”<sup>1588</sup> TF1-375 likewise recounted how RUF troops directed by Superman and Issa Sesay defended Yams Farm, Benguema barracks, Gberi Junction and Waterloo,

<sup>1581</sup> TF1-360, TT, 6 February 2008, pp. 3234-35.

<sup>1582</sup> TF1-334, TT, 23 April 2008, pp. 8328-32.

<sup>1583</sup> TF1-275, TT, 22 February 2008, p. 4567.

<sup>1584</sup> See for example Exh. P-149, which states “the Helicopter which landed every day at the point, had re-enforced the enemies with both armament and manpower.” See also DCT-172, TT, 27 August 2010, p. 47327.

<sup>1585</sup> DCT-172, TT, 23 August 2010, p. 46821.

<sup>1586</sup> See Exh. D-9, Sam Bockarie’s Salute Report, pp. 00009664-65 where Bockarie says that the troops that had entered Freetown were in danger of being encircled and “I was able to coordinate their operations over set and got them to combine their forces and bulldoze from the side accessing them to the mountains through which they took a bye-pass to join our troops at Benguema and Waterloo as Joi [sic] was occupied by ECOMOG. This was how the troops that entered Freetown were able to retreat.”

<sup>1587</sup> TF1-584, TT, 19 June 2008, p. 12284.

<sup>1588</sup> TF1-584, TT, 19 June 2008, p. 12285.

which cleared the road for Gullit and his AFRC/RUF troops to retreat safely using the peninsula road around the mountains all the way to Waterloo.<sup>1589</sup>

566. TF1-567 testified that Issa Sesay planned an attack on Tombo in an unsuccessful attempt to get back to Freetown. The witness said that the attack was carried out by Sesay's group and Gullit's group.<sup>1590</sup> Other witnesses in the trial confirmed that this joint attack took place in February 1999. A.B. Sesay himself took part in the attack and testified in detail how the operation was planned by Issa Sesay who went to Makeni and brought back ammunition for the attack and that Gullit, Superman, RUF Rambo, Rambo Red Goat, "Five-Five" and "O-Five" all participated.<sup>1591</sup>
567. When confronted with the testimony of TF1-567, Issa Sesay initially denied that he had led a second attempt to enter Freetown through Tombo, saying it "did not happen, not at all"<sup>1592</sup> and denied coordinating an attack with Gullit.<sup>1593</sup> However, Sesay was then confronted with his own prior testimony in his trial, where he testified that in February 2009 Gullit attacked Tombo with Superman and Rambo. Sesay was asked:

Q: So Mr Sesay, in February 1999, when the RUF knew about what had happened in Freetown, the city had been burnt, people had been killed and amputated, the RUF continued to work with Gullit and made a second attempt to get back to Freetown in a coordinated attack with the AFRC forces, correct?

A: Well, yes, that did happen but it was a failed attack, the attack was not successful...<sup>1594</sup>

568. The joint AFRC/RUF attack on Tombo in an attempt to return to Freetown is unambiguous evidence that the RUF and the forces that had invaded Freetown in January 1999 were working together and coordinating their actions. [REDACTED]

<sup>1589</sup> TF1-375, TT, 24 June 2008, pp. 12613-15: Gullit called Bockarie and said that he (Gullit) and his forces were running out of ammunition and would need protection while they were retreating. Bockarie instructed Superman and Issa Sesay to defend Gberi Junction, Benguema barracks and Waterloo so as to give free passage to the forces that were in Freetown (Gullit and the others) while they retreated. "[T]he pressure on them was not easy, so they decided to retreat. The pressure from the ECOMOG troops was not easy on them (...) Yes, we defended Waterloo because they were attacking us from Jui, Klay to Waterloo. We defended that road, we defended Benguema barracks and Gberi Junction, because the Guinean contingent that was based in Port Loko was trying to take over Gberi Junction, but we did not give them chance. We did not give them chance at that time."

<sup>1590</sup> TF1-567, TT, 2 July 2008, pp. 12924-25.

<sup>1591</sup> TF1-334, TT, 23 April 2008, pp. 8381-86.

<sup>1592</sup> DCT-172, TT, 23 August 2010, p. 46849.

<sup>1593</sup> DCT-172, TT, 23 August 2010, p. 46850.

<sup>1594</sup> DCT-172, TT, 23 August 2010, p. 46851.

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569. SAJ Musa's forces would never have even reached the Western Peninsula if not for the powerful RUF offensives that weakened ECOMOG's military strength. The RUF made many critical contributions to the attacks and atrocities throughout the Freetown invasion. The evidence shows that the huge scale of burnings, killings, amputations and other crimes suffered by the people of Freetown pleased Sam Bockarie.<sup>1596</sup> He had successfully implemented the plan he had been given by Taylor using the material assistance Taylor provided. The military advances and atrocities of the RUF had shaken the resolve of the international community and of ECOMOG to continue to pour money and blood into the fight, just as Taylor had foreseen.<sup>1597</sup> The RUF's military successes and the stunning atrocities they had inflicted led to a shameful capitulation of ECOMOG and the international community that was the Lomé Accord. The Accord rewarded the RUF war criminals with positions in Sierra Leone's government and control of the diamond fields. It allowed the architect of the offensive, Charles Taylor, to increase his profits from the diamonds mined at the cost of the blood of the Sierra Leonean people.

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1596 TF1-274, TT, 3 December 2008, pp. 21600-01. See also

1597 The 1998 offensive was politically perfectly timed as the principal contributor to ECOMOG, Nigeria, was facing severe economic hardship due to sharp declines in world oil prices (see Exh. P-573 and Taylor's acknowledgement he was aware of the oil price fall – see Accused, TT, 25 November 2009, pp. 32460). Taylor testified he was aware of Nigeria "complaining about the burden on its shoulder about the ECOMOG situation" and when asked if it was obvious to him that a "major defeat of ECOMOG forces could lead to an early withdrawal of ECOMOG from Sierra Leone," Taylor said, "Oh yes. I mean militarily you would say yes." Accused, TT, 25 November 2009, p. 32461. See also Exh. D-191, para. 5 on concerns regarding Nigeria waiving in its commitment to ECOMOG at the time of presidential elections.

## VII. 6(1) MODES OF LIABILITY

### INTRODUCTION

570. The overwhelming weight of the credible evidence in this case proves the Accused's guilt to all charges pursuant to all forms of liability under Article 6(1) and Article 6(3), individually or in the alternative. The evidence demonstrates that, during the Indictment Period, the Accused's criminal participation, involvement, concerted action with the RUF, and later the AFRC/RUF, was instrumental to the ability of these groups to carry out a campaign of terror in Sierra Leone involving all the crimes charged in Counts 1 through 11. The Accused's multi-faceted criminal participation, involvement, and concerted action with these groups were key to their ongoing criminal activity against civilians in Sierra Leone. He failed to prevent or punish the ongoing criminal activity of the RUF, and later the AFRC/RUF. He did not go inside Sierra Leone during the time of the charged offences, but from the outside he is criminally responsible for the crimes committed by his Liberian fighters and his proxy forces the RUF and later AFRC/RUF.

### VII.A. JCE

#### Article 6(1) Participation in a common plan, design or purpose or "JCE"

571. The Accused is individually criminally responsible for the Indictment Crimes by virtue of his ongoing participation in the realisation of a JCE. Charles Taylor incurred individual criminal responsibility for commission of the crimes charged in Counts 1 through 11 through his participation in the realisation of a common plan, common criminal purpose or design, also known as joint criminal enterprise.<sup>1598</sup> The Prosecution relies on all the credible evidence of the case, including that discussed in this Brief, in

<sup>1598</sup> Interchangeable terms: *Prosecutor v. Taylor*, SCSL-2003-01-T-775, "Decision on Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment," 1 May 2009, para. 19; CDF Trial Judgement, paras. 206-208; AFRC Rule 98 Decision, para. 306; *Krnjelac* Appeal Judgement, paras. 28-32 and 73; *Blagojević and Jokić* Trial Judgement, paras. 694-703. The interchangeability of the terms "common plan," "common criminal plan" and "joint criminal enterprise" has been recognized in the jurisprudence. See for example the CDF Trial Judgement, para. 206, referring to *Ojdanic* Appeal Decision on Joint Criminal Enterprise, para. 36. Trial Chamber I adopted the term "joint criminal enterprise," explicitly noting that it "refers to the same form of liability as that known as the common purpose doctrine or liability." Trial Chamber I acknowledged that the indictment in that case charged the accused with participating in a common purpose, plan or design and noted that "the phrases 'common purpose doctrine' on the one hand, and 'joint criminal enterprise' on the other have been used interchangeably in the international jurisprudence and they refer to one and the same thing."

support of the Accused's guilt as a participant in a JCE,<sup>1599</sup> Taylor did not physically perpetrate the crimes, but his participation and contribution were vital in facilitating the commission of the Indictment Crimes. Failure to hold Taylor criminally liable as a perpetrator would disregard his crucial role whereby he made it possible for the direct perpetrators to commit the crimes. To hold him liable **only** as an aider and abettor would understate the degree of his criminal responsibility.<sup>1600</sup> The Accused's liability under JCE is as broad as the plan in which he willingly participated and perpetuated.<sup>1601</sup>

572. The evidence proves beyond reasonable doubt all three elements of the *actus reus* of all three forms of liability as a participant in a JCE: (i) there existed a common plan, design or purpose which amounted to or involved the commission of a crime provided for in the Statute; (ii) there was a plurality of persons; (iii) Taylor participated in the common design which involved the perpetration of one of the crimes provided for in the Statute.<sup>1602</sup> The evidence also establishes beyond reasonable doubt that the Accused acted with the requisite *mens rea*. He and the other members of the JCE shared the intent to commit all the charged crimes.<sup>1603</sup> The evidence in the case, including the

<sup>1599</sup> establish by circumstantial evidence, may be inferred from all circumstances, no need previous plan: *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 243; *Tadić*, Appeals Judgement, 12 July, 1999, para. 220; that the Accused shared the intent to commit the crimes is the only reasonable inference to be drawn from all the circumstances – see *Vasiljević*, Appeals Chamber, 25 February 2004, para. 120. See also the *Krajišnik* Appeal Judgement, para. 202, referring to the Trial Judgement, para. 1196; *Vasiljević*, Appeals Judgement, 25 February 2004, paras. 108-109. In this regard, no proof is required of the existence of an agreement in relation to each of the crimes committed with a common purpose (*Krnojelac* Appeal Judgement, paras. 95-97 citing *Tadić* Appeal Judgement, para. 227) although there must be a mutual understanding or arrangement (*Brdanin*, Trial Judgement, 1 September 2004, para. 352); *Furundžija* Appeal Judgement, para. 119; *Krnojelac* Appeal Judgement, paras. 81, 96; *Simić* Trial Judgement, para. 158; *Vasiljević* Trial Judgement, para. 66; *Krnojelac* Trial Judgement, paras. 80-81 footnote 236; *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 117.

<sup>1600</sup> *Tadić* Appeal Judgement, paras. 191-192, but see generally the analysis at paras. 185-227.

<sup>1601</sup> Broad plan, broad liability: RUF Appeals Chamber, para. 317. The Appeals Chamber elaborated that “this does not imply, however, that JCE liability lapses into guilt by association” and quoted the *Brdanin* Appeals Chamber: “Where all [the] requirements for JCE liability are met beyond reasonable doubt, the accused has done far more than merely associate with criminal persons. He has the intent to commit a crime, he has joined with others to achieve this goal, and he has made a significant contribution to the crime’s commission”; *Brdanin* Appeals Judgement, para. 431 and *Martić* Appeals Judgement, para. 172; see also *Krajišnik* Appeal Judgement, paras. 65, where the Appeals chamber also recalled that both the *Einsatzgruppen* and *Justice* cases show that JCE applies to “large-scale cases.” See also, para. 671, where the Appeals Chamber notes that “the legal elements of JCE set out in the case of *Tadić*, who was a relatively low-level accused, remain the same in a case where JCE is applied to a high-level accused. See also: *Brdanin* Appeal Judgement, para. 423, referring to the Appeals Chamber of the ICTR in the *Rwamakuba* case and the *Justice* Case. See *Rwamakuba*, Decision on Interlocutory Appeal Regarding Application of Joint Criminal Enterprise to the Crime of Genocide, 22<sup>nd</sup> October 2004, para. 25. See also *Krajišnik* Trial Judgement, para. 876, where the Trial Chamber observes that the doctrine is “well suited” to cases “in which numerous persons are all said to be concerned with the commission of a large number of crimes.”

<sup>1602</sup> Actus reus: AFRC Appeal Judgement, para. 75, referring to *Tadić* Appeal Judgement, para. 227; see also RUF Appeal Judgement, para. 474.

<sup>1603</sup> Mens rea (JCE 1): RUF Appeal Judgement, para. 474, citing *Tadić* Appeal Judgement, para. 228. See also the CDF Trial Judgement, para. 210, referring to *Vasiljević* Appeal Judgement, paras 97-99, which states as

Accused's ongoing superior authority over the RUF, AFRC/RUF and over his Liberian subordinate members of the JCE, demonstrates his intent to commit the Indictment Crimes.<sup>1604</sup>

573. The Accused's diverse "joint action" with other members of the JCE demonstrates his participation in, contribution to, and intent regarding the JCE, as does his ongoing, extensive, vital character of his actions. His ongoing, close interactions and coordination with the other members of the JCE also establishes his participation, contribution and intent with regard to the JCE.<sup>1605</sup>

#### (i) Existence of a JCE

574. The evidence in this case proves beyond reasonable doubt the existence of a common plan, design or purposes which amounted to or involved the commission of a crime provided for in the Statute: The use of criminal means, a campaign of terror encompassing the Indictment Crimes, in order to achieve the ultimate objective of the JCE, to forcibly control the population and territory of Sierra Leone and to pillage its resources, in particular diamonds. The only reasonable explanation for the evidence in this case is that there existed a common plan, design or purpose which amounted to or involved the commission of a crime within the jurisdiction of the Court, Counts 1 through 11, to achieve forcible control over the population and territory of Sierra Leone and to pillage the resources of that country, in particular the diamonds.<sup>1606</sup> The evidence establishes that the Accused and the other members of the JCE worked in unison throughout the conflict in Sierra Leone to put into effect the JCE.<sup>1607</sup> It is of consequence that there existed common cause between the Accused and Foday Sankoh even before the initial attack on Sierra Leone, and that Sankoh had already begun to

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follows: (i) "The first category is a "basic" form of joint criminal enterprise. It is represented by cases where all co-perpetrators, acting pursuant to a common purpose, possess the same criminal intention. An example is a plan formulated by the participants in the joint criminal enterprise to kill where, although each of the participants in the joint criminal enterprise may carry out a different role, each of them has the intent to kill.

<sup>1604</sup> All circumstances, position in hierarchy: *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 243; *Tadić*, Appeals Judgement, 12 July, 1999, para. 220; that the Accused shared the intent to commit the crimes is the only reasonable inference to be drawn from all the circumstances – see *Vasiljević*, Appeals Chamber, 25 February 2004, para. 120. See also the *Krajišnik* Appeal Judgement, para. 202, referring to the Trial Judgement, para. 1196.

<sup>1605</sup> Interaction, coordination: RUF Appeal Judgement, para. 1035.

<sup>1606</sup> Existence JCE: RUF Appeal Judgement, para. 474.

<sup>1607</sup> Inference based on acting in unison: *Furundžija* Appeal Judgement, para. 119; *Krnjelac* Appeal Judgement, paras. 81, 96; *Simić* Trial Judgement, para. 158; *Vasiljević* Trial Judgement, para. 66; *Krnjelac* Trial Judgement, paras. 80-81, footnote 236; see also *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 117.

fulfill his part of that common cause, assisting the Accused in his invasion of Liberia.<sup>1608</sup>

575. The invasion of Sierra Leone was the prelude to the achievement of the ultimate objectives of the common plan, design or purpose. Thereafter, the joint actions of the Accused and other participants in the JCE were geared toward those dual objectives. Throughout the conflict the Accused and the factions were focused on capturing and controlling the territory and population of Sierra Leone. As noted above,<sup>1609</sup> each time the RUF, and later the AFRC/RUF, gained control of areas with diamonds, those diamonds were pillaged, and most of the pillaged stones were handed over to Taylor. Sankoh himself was well aware that achieving the objective of pillage, with the attendant requirement of control over the population and territory, was critical to the JCE. Indeed, in 1992, he and Taylor devised the plan to capture diamond rich Kono District, with Taylor providing the materiel for that mission. During the short time they held that area, Sankoh took diamonds to Taylor and received more arms and ammunition in return.
576. During and after the Junta period Taylor was provided a steady supply of diamonds from territory under the control of the AFRC/RUF, mined by the forced labour of civilians under the control of the AFRC/RUF. In addition to being necessary to ensure a steady flow of pillaged resources, in particular diamonds, control of the population and territory of Sierra Leone also met Taylor's need to have a friendly neighbour, one responsive to his directives, as were the RUF, AFRC/RUF.<sup>1610</sup> Taylor's emphasis on holding the diamond areas after the Intervention, and on regaining control over the key city in Sierra Leone, is further proof of the existence and ultimate objectives of the JCE.
577. The Accused is liable for his participation in the common plan both because the JCE contemplated crimes within the Statute as a means of achieving the ultimate objectives of the JCE, and because the JCE had as one of its ultimate objectives pillage, a crime within the Statute.<sup>1611</sup> The evidence establishes that the Accused and the other

<sup>1608</sup> See Section II.A.

<sup>1609</sup> See Section III.A.

<sup>1610</sup> See Sections II.A, B, III.B, C and VIII.

<sup>1611</sup> Criminal means and/or criminal objective: AFRC Appeal Judgement, para. 80; see also RUF Appeal Judgement, paras. 76, 294–295, para. 296, referring to *Prosecutor v. Martić*, Appeal Judgement, 8 October 2008, para 123. Notably, the Appeals Chamber also added that this position was consistent with the Appeal Judgements in *Kvočka et al.*, *Krajišnik* and *Tadić*, all of which require as a matter of law only that the common purpose “amounts to or involves” the commission of a crime provided for in the ICTY Statute, and para. 474.



members of the JCE acted jointly, in concert, to use the crimes alleged as the means by which to achieve these ultimate objectives. As discussed more fully in Section IV, the crimes committed in Sierra Leone were but a reflection of the pattern of conduct established by Taylor in Liberia.

578. The campaign of terror enabled the Accused and other members of the JCE to subdue a larger population and subjugate it to the will and usages of the members of the JCE; it rid the Accused and other members of the JCE of those who would not submit, and who could have set an example for, or led, other slaves to resist; it provided the territory and resident populations needed to effectively pillage the resources of the country. The Accused participated in a multitude of ways critical to the ability of the perpetrators to continue this campaign of terror throughout the Indictment Period. For example, he provided trainees who went on to make up the majority of the leaders of the RUF and later, of the AFRC/RUF alliance; his trainers conditioned these future leaders to use terror against civilians to achieve their objectives; he approved or devised plans that used terror to achieve their goals.<sup>1612</sup>
579. Not only did the Accused and other members of the JCE use criminal means to achieve the ultimate objectives of the JCE, one of the ultimate objectives itself amounted to a crime within the jurisdiction of the SCSL – the objective of pillaging the resources of Sierra Leone, in particular the diamonds. Pillage is a crime under Article 3 of the Statute.<sup>1613</sup> The evidence establishes that the diamonds taken by the RUF, AFRC/RUF were taken from private owners - individuals, companies which had been granted mining concessions.<sup>1614</sup> Thus the JCE in which the Accused participated both amounted to, and involved, the commission of crimes within the jurisdiction of the Court.

<sup>1612</sup> See Section II.A.

<sup>1613</sup> Pillage: AFRC Trial Judgement, para. 755: in addition to the contextual elements, the elements of the underlying offence of pillage are: the perpetrator appropriated property, the appropriation was without the consent of the owner, and the perpetrator intended to deprive the owner of property.

<sup>1613</sup> Criminal objective: RUF Appeal Judgement, para. 474.

<sup>1614</sup> See

[REDACTED]; TF1-045, TT, 12 November 2008, pp. 20142-49; TF1-274, TT, 2 December 2008, pp. 21422-27; TF1-567, TT, 2 July 2008, pp. 12884-89: taken from civilians in Kenema District; TF1-060, TT, 29 September 2008, pp. 17497-501.

## (ii) Plurality of persons

580. The evidence in this case proves to the requisite degree of certainty that there was a plurality of persons who acted together cooperatively in pursuit of the common plan, purpose or design. The Accused acted jointly and cooperatively with the other members of the JCE to pursue the realisation of the shared common criminal plan design or purpose. The evidence also establishes that there was a plurality of persons, including the Accused, who acted in concert in the implementation of their common purposes.<sup>1615</sup> Though it need not be the case, the plurality was organized in a military, administrative and, at times, political structure.<sup>1616</sup> The evidence need not identify by name each of the persons involved; it does appropriately speak to the categories or groups of persons who constitute the plurality<sup>1617</sup>—for example, the RUF, AFRC/RUF, Taylor's SSS, ATU, AFL, LNP, SOD, and officials in his government during his Presidency. The evidence speaks to some individual members of the JCE, however, including Taylor and many of his subordinates such as Yeaten, Roland Duoh, Dopoe Menkarzon and Joe Tuah. The evidence also speaks to the leaders of the RUF, AFRC/RUF and their subordinate commanders such as Superman and Morris Kallon. And, after, on or about 28 May 1997, the plurality also included commanders and leaders of the AFRC, such as JPK and Gullit, who agreed to and commenced participation in the common plan on or about that date. Some commanders of the AFRC and some of their followers later ceased concerted action with the other members of the JCE; for example SAJ Musa and some of his followers ceased such concerted action in about October 1998. However, thereafter, most of the AFRC component, including commanders such as Gullit, remained in the alliance and continued to subordinate themselves to the overall leadership of senior alliance commanders such as Sam Bockarie. The same scenario prevailed when later, some time in about mid- to late 2000, Johnny Paul Koroma and some of his followers also withdrew. Again, other commanders such as Akim Turay and Leatherboot and the majority of the AFRC, continued to remain within the alliance and subordinate themselves to senior alliance

<sup>1615</sup> RUF Appeal Judgement, para. 474; CDF Trial Judgement, para. 231, referring to *Stakić* Appeal Judgement, para. 64 and *Tadić* Appeal Judgement, para. 227; RUF Appeal Judgement, para. 1034.

<sup>1616</sup> CDF Trial Judgement, para. 213. Pre-trial brief referring to *Tadić* Appeal Judgement, para. 227.

<sup>1617</sup> Categories or groups: *Prosecutor v Krajišnik*, IT-00-39-A, 17 March 2009, para. 156, referring to *Limaj et al* Appeal Judgement, para. 99; *Brđanin* Appeal Judgement, para. 430; *Stakić* Appeal Judgement, para. 69.

leadership such as Issa Sesay.<sup>1618</sup> Members of these groups were either participants in the common plan or used by the Accused and other leaders and commanders as tools to implement and achieve the agreed JCE.<sup>1619</sup>

### (iii) Participation:

581. The Accused participated in the JCE in a number of ways, all of them contributing significantly to the commission of the Indictment Crimes. The evidence proves that the Accused voluntarily participated in the JCE in a myriad of ways directed at furthering or in furtherance of the JCE.<sup>1620</sup> The Accused did not physically perpetrate any of the charged offences, but is guilty under this mode of liability through his voluntarily performance of acts directed at furthering or in furtherance of the common plan or purpose.<sup>1621</sup> The law may or may not require that the Accused's contribution be significant;<sup>1622</sup> in this case Taylor's contribution was significant to the execution and furtherance of the common plan, and, at times, to the very survival of the other participants in the JCE. The Accused's participation formed a link in the chain of

<sup>1618</sup> Fluidity of plurality: Notably the RUF Appeals Chamber did not interfere with the legal finding of Trial Chamber I that "the plurality of persons "may change" as participants enter or withdraw from the JCE," at para. 313 of the RUF Appeals Judgement. See RUF Trial Judgement, para. 262, referring to the *Blagojević and Jokić* Trial Judgement, paras. 700-701 and other sources.

<sup>1619</sup> Tools: CDF Trial Judgement, para. 216 relying on *Brđanin* Appeal Judgement at para. 410; RUF Trial Judgement, para. 263, also relying on *Brđanin*. See *Brđanin* Appeal Judgement, paras. 410-413; *Martić* Appeal Judgement, paras. 169 and 171; *Krajišnik* Appeal Judgement, paras. 225-226; see regarding numbers in the forces: [REDACTED]; Exh. P-54; Exh. P-31, pp. 7, 8, 14; Ellis notes that the Sierra Leonean Truth and Reconciliation Commission's report described the NPFL as 'primary perpetrators' in the first phase of the war, 1991 to 1994 and that as many as 1,600 NPFL fighters were involved in this early phase (as much as 80% of insurgent forces); TF1-532, TT, 10 March 2008, p. 5676. See also DCT-215, TT, 30 March 2010, pp. 38259-60; see also Exhibit P-54; TF1-567, TT, 2 July 2008, p. 12867; Exh. P-307, p. 00012356, para. 18; Exh. P-604C, para. 13. See also interim figures provided in Exh. P-590, paras. 21-22.

<sup>1620</sup> Participation: RUF Appeal Judgement, para. 474.

<sup>1621</sup> Need not physically perpetrate crimes, take other forms: RUF Appeal Judgement, paras 616-636 and 1169, referring to *Brđanin* Appeal Judgement, para. 427 ("the accused need not have performed any part of the *actus reus* of the perpetrated crime"); *Kvočka et al.* Appeal Judgement, para. 99 ("A participant in a joint criminal enterprise need not physically participate in any element of any crime, so long as the requirements of joint criminal enterprise responsibility are met"); *Vasiljević* Appeal Judgement, paras 100, 119 ("[T]he participation of the accused in the common purpose is required, which involves the perpetration of one of the crimes provided for in the Statute. This participation need not involve commission of a specific crime under one of the provisions (for example murder, extermination, torture or rape), but may take the form of assistance in, or contribution to, the execution of the common purpose"); *Tadić* Appeal Judgement, paras. 196 and 227; *Babić*, Appeals Judgement, 18 July 2005, para. 38; *Kvočka et al.*, Trial Judgement, 2 November 2001, para. 289.

<sup>1622</sup> Contribution: CDF Trial Judgement, para. 215, referring to *Brđanin et al.*, Appeal Judgement, para. 430, citing *Kvočka et al.* Appeal Judgement, para. 97. See also the RUF Appeal Judgement, paras. 313, 401, 611 and 1169, which also refer to the *Krajišnik* Appeal Judgement, para. 695 and *Brđanin* Appeal Judgement, paras. 427 and 430. See also the *Krajišnik* Appeal Judgement, para. 215 and para. 675; but see *Kvočka et al.*, Appeals Judgement, 28 February 2005, paras. 97, 421: contribution need not be significant; see also, *Krajišnik*, Appeal Judgement, para. 680.

causation resulting in the commission of the charged crimes.<sup>1623</sup> The Accused did not physically perpetrate any of the charged offences but is guilty under this mode of liability through his contributions to the execution of the common plan. Taylor provided vital instruction, direction and guidance,<sup>1624</sup> materiel,<sup>1625</sup> manpower,<sup>1626</sup> communications capability,<sup>1627</sup> strategic command,<sup>1628</sup> and many other forms of crucial support.<sup>1629</sup> Without his contributions, the perpetrators of these crimes would not have had the ability to carry out this campaign of terror over such a large area, for such a long time with so many victims. Taylor's contributions late in the conflict in Sierra Leone prolonged that conflict and the attendant crimes by ensuring that Issa Sesay resisted the peace until around the time of the formal cessation of hostilities in January 2002.<sup>1630</sup> The only reasonable explanation for the evidence in this case, as highlighted in this Brief, is that Taylor and the other members of the JCE were all cogs in the wheel of events leading to the commission of the charged crimes.<sup>1631</sup>

582. Without the training, provisioning, manpower and leadership Taylor gave the RUF it would have been impossible to commence and continue the attacks on and in Sierra Leone, a defining part of which was the campaign of terror Taylor's NPFL and proxy force the RUF waged from the very beginning of the conflict. Sankoh quite rightly acknowledged Taylor's critical contributions to the RUF in 1990 when he said "...the war that Charles Taylor had brought to Liberia was a similar that he planned to enter Sierra Leone... he came together with Charles Taylor and Charles Taylor was giving him full-time support for him to go and fight in Sierra Leone."<sup>1632</sup>
583. Sankoh was equally clear with RUF recruits at Camp Naama, a location supplied by Taylor and close to his headquarters in Gbarnga, explaining that all that was happening

<sup>1623</sup> Degree of participation: *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 98 and *Brđanin*, Trial Judgement, 1 September 2004, para. 263.

<sup>1624</sup> See Sections II.A.B, III.B.C and VIII.

<sup>1625</sup> See Section II.D.

<sup>1626</sup> See Section II.E.

<sup>1627</sup> See Section II.F.

<sup>1628</sup> See Sections II.A.B, III.B.C, V, VI, VII.

<sup>1629</sup> See Sections II.G, H, I.

<sup>1630</sup> TF1-338, TT, 2 September 2008, pp. 15157-61, 15173-76; TF1-375, TT, 24 June 2008, pp. 12690-93.

<sup>1631</sup> Diverse forms of joint action: RUF Appeal Judgement, para. 1035.

<sup>1632</sup> TF1-367, TT, 20 August 2008, p. 14090. Also pp. 14098-99.

was being done by his brother, Taylor.<sup>1633</sup> Sankoh also acknowledged that “after the training, Sankoh depended on Taylor for all required for the mission.”<sup>1634</sup>

584. During the initial phase of the conflict<sup>1635</sup> whatever Sankoh took to Sierra Leone was from Taylor. If Taylor did not provide it, then the fighters in Sierra Leone did not have it.<sup>1636</sup> Even after Taylor withdrew most of his fighters from Sierra Leone, he continued to be intimately involved with the RUF in a myriad of ways. When the RUF was pushed back to a small area along their shared border, Taylor’s instruction, direction and guidance ensured that the RUF survived and was able to once again extend the area of its control, with consequent increase in the crimes against civilians. Taylor ensured the RUF gained international recognition, concluded a peace agreement at Abidjan that rid them of a formidable foe, and gave them the opportunity to regroup and re-provision.
585. When Sankoh was detained in Nigeria, Taylor kept the RUF command structure intact and gave critical instruction, direction and guidance to the new commander in Sierra Leone, Sam Bockarie. Taylor’s participation, involvement and concerted action with the RUF and AFRC/RUF through this vicious leader expanded the territory under the control of the AFRC/RUF, prevented the total defeat of the Junta forces as they fled from Freetown, ensured control over the diamond mining areas, and almost succeeded in taking control of the country in January/ February 1999. Taylor’s support to Junta leader JPK benefited the Junta and prolonged its existence. After the Intervention, Taylor’s multifaceted actions were critical to the AFRC/RUF’s ability to remain a viable force able to resist the GoSL or international forces and to continue and even intensify its campaign of terror. Taylor provided invaluable instruction, direction, guidance, arms, ammunition and other necessary support to his proxy forces, emphasizing always the importance of securing and maintaining control over the diamond mining areas. Taylor’s vital participation included devising and resourcing the multi-axis, nationwide offensive that regained control over the richest diamond areas, secured control over Freetown itself for a short period and unleashed an “orgy of

<sup>1633</sup> TF1-532, TT, 10 March 2008, p. 5667.

<sup>1634</sup> TF1-532, TT, 10 March 2008, p. 5668.

<sup>1635</sup> TF1-367, TT, 20 August 2008, pp. 14102-03, 14109: the witness was stationed at Gbarnga two to three months after March 1991 and remained in Gbarnga for 6 months. The period referred to here is 1991.

<sup>1636</sup> TF1-367, TT, 20 August 2008, p. 14105.

violence.”<sup>1637</sup> Another example of Taylor’s vital contribution is his use of his Presidential power and authority to ensure that the AFRC/RUF benefited from a favourable peace agreement in 1999. As discussed above, this allowed the AFRC/RUF to resist disarmament, prolonging the conflict in Sierra Leone and the consequent ongoing campaign of terror.

586. The Accused participated directly with all the leaders of the various factions throughout the conflict in Sierra Leone, communicating personally with them regarding matters relevant to the JCE, via face to face discussions, telephone or radio communications. He communicated with them through his subordinate intermediaries or through their subordinates, including with subordinates who brought him diamonds, or who provided information to him on his instruction.<sup>1638</sup> At times he participated directly with the subordinates, such as when he organized ex-SLAs in Liberia and sent them back to the AFRC/RUF to take part in the multi-axis, nationwide operation he devised.<sup>1639</sup> To the extent that the direct perpetrators were tools of Taylor and/or other member(s) of the JCE, Taylor is nonetheless liable for those crimes, as the crimes in question formed part of the common purpose. The Accused or his subordinates or associate members of the JCE such as Benjamin Yeaten, or the leaders of the RUF, AFRC/RUF or their subordinate members of the JCE, closely cooperated with the principal perpetrators in order to further the common criminal purpose<sup>1640</sup> in all the ways discussed in this brief, including but not limited to planning which included commission of these crimes,<sup>1641</sup> and instruction, direction and guidance to the subordinates to carry out the crimes.<sup>1642</sup> The evidence establishes that the crimes at issue were committed by forces under the control of the Accused and/or other JCE members, or by those acting in coordination

<sup>1637</sup> See Lead Defence Counsel’s characterization at TT, 30 July 2009, p. 25602.

<sup>1638</sup> For delivery of diamonds via subordinates see evidence in section on Taylor and diamonds. For provision of information via subordinates see section on provision of manpower.

<sup>1639</sup> TF1-334, TT, 24 April 2008, p. 8504: Taylor told the witness and others about this during a meeting with them in August 1999.

<sup>1640</sup> use of tool, inference: CDF Trial Judgement, para. 216 relying on *Brđanin* Appeal Judgement at para. 410; RUF Trial Judgement, para. 263, also relying on *Brđanin*; See *Brđanin* Appeal Judgement, paras. 410-413; *Martić* Appeal Judgement, paras. 169 and 171; *Krajišnik* Appeal Judgement, paras. 225-226; RUF Appeal Judgement, para. 414. Notably in para. 414 the Appeal Chamber went on to specifically reject grounds of appeal raised by Kallon and Sesay respectively that: the link requires evidence that a JCE member had “control and influence” as to each incident and group of non-JCE members at issues; and held that Sesay was incorrect to imply that, as a matter of law, from taking into account the widespread or systematic nature of the crimes inferring whether non-members of the JCE were used by the JCE members. See also *Krajišnik* Appeal Judgement, paras. 225-226.

<sup>1641</sup> For example, plan to make Kono a no go zone for civilians, plan for multi-axis operation that included making the operation more fearful than all prior operations, to kill every living thing even chickens, to burn.

<sup>1642</sup> For example, Operation Pay Yourself, Operation No Living Thing.

with forces under the control of the Accused. What is most important is that the Accused or other members of the JCE such as Sam Bockarie, Issa Sesay, JPK, Gullit aka Alex Tamba Brima used their subordinates to commit crimes within the common purpose of the JCE. The evidence need not show that these subordinates intended to further the common purpose of the JCE or indeed even knew of that common purpose.<sup>1643</sup>

587. As established in Sections II.A, B, C, III.B,C, V, VI, the leaders of the AFRC/RUF worked together toward achieving the JCE throughout the existence of the alliance, i.e., until the official cessation of the conflict on about 18 January 2002. [REDACTED]

[REDACTED]<sup>1644</sup> but those differences were put aside to achieve the ultimate objectives of the JCE. For example, despite differences Superman may have had with Bockarie and later with Issa Sesay, Superman joined the multi-axis offensive, participating with other senior AFRC/RUF commanders in taking Koidu Town and other locations all the way to the outskirts of Freetown. There, the opposing forces, not internal differences, prevented most of these combined fighters from moving into Freetown. They continued to attempt to do so, however, and to play a crucial role in the retreat of the AFRC/RUF fighters from Freetown. Even SAJ Musa cooperated with other senior commanders of the alliance until late 1998, and upon his death Gullit immediately resumed full cooperation with Bockarie as his superior commander. Superman later subordinated himself to the command of Issa Sesay, following his orders to take command of missions in Guinea, the purpose of which was to fight LURD rebels on behalf of Taylor.<sup>1645</sup> Throughout the alliance most of the ex-SLA fighters remained loyally within the alliance, subordinating themselves to first Bockarie's authority and then to that of Sesay.

<sup>1643</sup> RUF Appeal Judgement, para. 652, footnotes omitted, quoting *Brđanin* Appeal Judgement, paras. 410-414.

<sup>1644</sup> See for example [REDACTED].

<sup>1645</sup> See Section III.B. For example see, TF1-338, TT, 2 September 2008, pp. 15177-80 (mission against Kissidougou; TF1-516, TT, 9 April 2008, pp. 7056-58 (mission in Voinjama).

### ***Mens rea* - shared intent (JCE 1)**

**The Accused and the other members of the JCE shared the intent to commit the Indictment Crimes, and the Accused intended to participate in the common plan through criminal means—the commission of the Indictment Crimes.**

588. As discussed in Sections II.A, B, C, III.B, C and VIII, the evidence in this case, including that showing the Accused's ongoing superior position among the members of the JCE,<sup>1646</sup> establishes beyond reasonable doubt that the Accused had the requisite *mens rea* for the "basic form" of JCE liability (JCE 1).<sup>1647</sup> The Accused's intent was manifested directly and through his continued participation in the JCE with the knowledge of the ongoing crimes. Further, assuming *arguendo* the original common plan or purpose did not involve all the charged crimes, the plan evolved over time and by the Indictment Period involved all crimes charged. The Accused's intent with respect to the evolving or "new" crimes was manifested through his acceptance of the expanded common purpose and continued contribution to achievement of the objectives of the JCE. Finally, the Accused manifested his shared intent with regard to all crimes in that, assuming *arguendo*, not all crimes were within the original common plan or purpose, the remaining crimes were foreseeable consequences of the agreed common plan or purpose. Over time, the Accused continued to participate within the JCE even with knowledge of the commission of these foreseeable crimes, his *mens rea* transformed from that for the extended form of JCE to the basic form, shared intent.

### Direct manifestations of intent

589. The discussion of *mens rea* in Section IV gives examples of the direct manifestations of the Accused's intent.

<sup>1646</sup> *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 243; *Tadić*, Appeals Judgement, 12 July, 1999, para. 220; but see *Vasiljević*, Appeals Chamber, 25 February 2004, para. 120. See also the *Krajišnik* Appeal Judgement, para. 202, referring to the Trial Judgement, para. 1196.

<sup>1647</sup> RUF Appeal Judgement, para. 474, citing *Tadić* Appeal Judgement, para. 228. See also the CDF Trial Judgement, para. 210, referring to *Vasiljević* Appeal Judgement, paras 97 – 99, which states as follows: (i) "The first category is a "basic" form of joint criminal enterprise. It is represented by cases where all co-perpetrators, acting pursuant to a common purpose, possess the same criminal intention. An example is a plan formulated by the participants in the joint criminal enterprise to kill where, although each of the participants in the joint criminal enterprise may carry out a different role, each of them has the intent to kill, and para. 218, referring to *Tadić* Appeal Judgement, para. 228, *Brđanin et al.* Appeal Judgement, para. 365; *Kvočka et al.*, Appeals Judgement, 28 February 2005, para. 243; *Tadić*, Appeals Judgement, 12 July, 1999, para. 220; RUF Appeal Judgement, para. 474, citing with approval *Tadić* Appeal Judgement, para. 228. See also the CDF Trial Judgement, para. 210, referring to *Vasiljević* Appeal Judgement, paras 97 – 99.



Continued participation with knowledge of ongoing crimes

590. The Accused's shared intent to commit all these crimes is also established by his continuing participation in the JCE with the knowledge that all the charged crimes were being committed. By the Indictment Period, Taylor had been aware of the commission of these ongoing crimes for years. Taylor's continued participation with the perpetrator group proves his intent; such continued participation certainly also supports an inference that he intended the charged crimes.<sup>1648</sup>

Alternatively, acceptance of evolved purpose and continued participation

591. To the extent any of the Indictment Crimes were not part of the original criminal means, that criminal means evolved over time to encompass all the charged crimes by the Indictment Period. The evidence establishes that the Accused and all other leading members of the JCE were aware of all the types of crimes being committed, and took no effective measures to prevent recurrence of any of these crimes. In addition, the evidence shows that the Accused and other leading members of the JCE persisted in the implementation of the common objective of the JCE. Those circumstances demonstrate that the Accused accepted the expansion of the criminal means, yet continued to contribute to the objectives of the JCE. This, in turn, establishes that the Accused intended the commission of all the charged crimes.<sup>1649</sup>

592. Similarly, the Accused shared the intent for the crimes that may have originally been only foreseeable consequences of the common plan or purpose. By the Indictment Period these crimes had been ongoing for years and were notorious. Nevertheless, with knowledge of these crimes, the Accused continued to participate in the common plan or purpose. His intent that these crimes be committed as part of the common purpose may

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<sup>1648</sup> See further the separate section on Taylor's *mens rea*.

<sup>1649</sup> evolving criminal means: *Krajišnik* Appeal Judgement, para. 162, , referring with approval to the *Krajišnik* Trial Judgement, para. 1098 and para. 163 and fn 418. The Appeal Chamber added that "in this respect, it is not necessary to show that the JCE members explicitly agreed to the expansion of the criminal means; this agreement may materialise extemporaneously and be inferred from circumstantial evidence." See further at para. 171 of the Appeal Judgement, where the Appeals Chamber examined the issue, in terms of the Trial Chamber being required to make findings as to (1) whether leading members of the JCE were informed of the crimes, (2) whether they did nothing to prevent their recurrence and persisted in the implementation of this expansion of the common objective, and (3) when the expanded crimes became incorporated into the common objective. See also: RUF Trial Judgement, fn. 456, referring to the *Krajišnik* Trial Judgement, para. 1098, and the Rule 98 Decision, paras. 309 and 311. Confirmed by the RUF Appeal Judgement at para. 313: "As regards the nature of the common purpose, the Trial Chamber held that a JCE may be "fluid" in its criminal means, but only to the extent its participants so accept."

be concluded in light of all the circumstances, including the vital nature, quality and quantity of the Accused's ongoing joint action with the other members of the JCE.<sup>1650</sup>

***Mens rea* – foreseeable crimes (JCE 3)**

593. In the alternative, assuming *arguendo* not all the charged crimes were a part of the agreed criminal means to be used to achieve the ultimate objectives, the Accused nonetheless incurred individual criminal responsibility for the charged crimes. Taylor intended to participate in and further the criminal activity of the criminal purpose of the JCE and to contribute to the JCE (or in any event the commission of a crime by the group) which, at a minimum, encompassed the crimes of: acts of terror against civilians in Sierra Leone; conscription, enlistment and use in active hostilities of children under the age of 15 years; enslavement of civilians; and pillage. The crimes alleged in Counts 2, 3, 4, 5, 6, 7, 8, were foreseeable consequences of the agreed crimes. The evidence establishes the Accused's individual criminal liability for these foreseeable crimes in that it proves that the Accused knew such crimes might be perpetrated by a member of the group, and willingly took that risk, as evidenced by his continued participation in the JCE.<sup>1651</sup>

594. The Accused and members of the JCE always intended that they would achieve their ultimate objectives through the criminal means of acts of terror against civilians in Sierra Leone; conscription, enlistment and use in active hostilities of children under the age of 15 years; enslavement of civilians; and pillage. It was reasonably foreseeable that using those agreed means to achieve their ultimate objectives would lead to the killing of civilians, for example: in the course of carrying out acts of terror; during attacks on villages, towns, cities to carry out the listed crimes; of civilians who resisted

<sup>1650</sup> nature, quality and quantity of joint action: RUF Appeal Judgement, para. 1035.

<sup>1651</sup> Extended JCE (JCE 3): See RUF Appeal Judgement, paras. 474 and 475, citing with approval *Tadić* Appeal Judgement, para. 228. See also the CDF Trial Judgement, para. 210, referring to *Vasiljević* Appeal Judgement, paras 97 – 99, which states as follows: (iii) The third category is an "extended" form of joint criminal enterprise. It concerns cases involving a common purpose to commit a crime where one of the perpetrators commits an act which, while outside the common purpose, is nevertheless a natural and foreseeable consequence of the effecting of that common purpose. An example is a common purpose or plan on the part of a group to forcibly remove at gun-point members of one ethnicity from their town, village or region (to effect "ethnic cleansing") with the consequence that, in the course of doing so, one or more of the victims is shot and killed. While murder may not have been explicitly acknowledged to be part of the common purpose, it was nevertheless foreseeable that the forcible removal of civilians at gunpoint might well result in the deaths of one or more of those civilians."

CDF Trial Judgement, para. 219. See also *Deronjić*, Appeals Judgement, 20 July 2005, para. 43; *Babić*, Appeals Judgement, 18 July 2005, para. 27; *Blaškić*, Appeals Judgement, 29 July 2004, para. 33; *Krstić*, Appeals Judgement, 19 April 2004, para. 150; *Tadić*, Appeals Judgement, 15 July 1999, para. 228; *Martić* Appeal Judgement, para. 83.

the conscription or enlistment of their young children, relatives, friends, enslavement, pillage; of those young children who resisted conscription including training, or were unable to successfully accomplish the training exercises; of those enslaved who did not carry out their forced labour duties as their masters expected. Likewise, it was reasonably foreseeable that the crimes alleged in Counts 4 through 8 would be committed in the course of carrying out the intended crimes, for example: sexual violence as charged in Counts 4 through 6 in the course of attacks on towns, villages, cities to capture civilians to be used as slaves or child soldiers or to pillage, and the commission of Counts 4 through 6 against captive females, including those trained and used as child soldiers. Similarly, it was a foreseeable consequence that civilians would be the victims of physical violence as charged in Counts 7 and 8, for example, to mutilate them to frighten others into compliance, to mark them as property of the RUF or AFRC so that they would not escape, or to beat them to ensure slave labourers continued to work and did not try to take the fruits of their labours such as diamonds. Despite this, the Accused continued participate in the JCE in ways vital to its ability to carry out all crimes in order to further the agreed purpose of the JCE. The evidence proves the Accused's guilt under this extended form of JCE liability as well.

## VII. B. AIDING & ABETTING

595. In the AFRC Judgement Trial Chamber II held that the *actus reus* of “aiding and abetting” requires that the accused gave practical assistance, encouragement, or moral support which had a substantial effect on the perpetration of a crime.”<sup>1652</sup> Further, the Appeals Chamber has specifically confirmed that “encouragement” and “moral support” may constitute the *actus reus* of aiding and abetting.<sup>1653</sup> The Trial Chamber stated that “aiding and abetting” may be constituted by contribution to the planning, preparation or execution of a finally completed crime.”<sup>1654</sup> The *actus reus* of aiding and abetting may consist of either an act or an omission, providing that the basic elements of aiding and abetting as set out below are satisfied.<sup>1655</sup> Notably, the Appeals Chamber

<sup>1652</sup> AFRC Trial Judgement, para. 775, referring to *Blaškić* Appeal Judgement, para. 46.

<sup>1653</sup> CDF Appeal Judgement, para. 72.

<sup>1654</sup> AFRC Appeal Judgement, para 775, referring to *Blaškić* Appeal Judgement, paras 45, 48; *Prosecutor v Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-T, Judgement 23 January 2003, para 957; *Orić* Trial Judgement, para 282.

<sup>1655</sup> *Prosecutor v Orić*, IT-03-68-A, Appeal Judgement, 3 July 2008, para. 43, relied on in the RUF Trial Judgement, para. 276. See also *Mrksić* Appeal Judgement, paras. 134-135 and paras. 145-160 where this point was specifically considered on appeal. Notably, at para. 146 the Appeals Chamber stated that “the critical issue to be determined is whether, on the particular facts of a given case, it is established that the failure to discharge a

of the ICTY has confirmed that *actus reus* of aiding and abetting may be satisfied by a commander permitting the use of resources under his or her control, including personnel, to facilitate the perpetration of a crime.<sup>1656</sup> “Aiding” and “abetting” are not synonymous. “Aiding” means providing assistance to someone. “Abetting” need involve no more than encouraging, or being sympathetic to, the commission of a particular act.<sup>1657</sup> It is submitted that either aiding or abetting alone is sufficient to render an accused criminally responsible.

596. The support of the accused must have a *substantial effect* upon the perpetration of the crime.<sup>1658</sup> However, it is not necessary to prove that a cause-effect relationship existed between the conduct of the aider and abettor and the commission of the crime, or that such conduct served as a condition precedent to the commission of the crime.<sup>1659</sup> The Appeals Chamber referring to the ICTY Appeals Chamber decision in *Blaskić* confirmed that acts of aiding and abetting “may occur before, during, or after the principal crime has been perpetrated,” and that “the location at which the *actus reus* takes place may be removed from the location of the principal crime.”<sup>1660</sup> The Appeals Chamber in the CDF Appeal specifically held that, as a matter of law, words of encouragement and support may have a “substantial effect” even though they were spoken at a time and place that are temporally and geographically removed from the commission of the crimes.<sup>1661</sup>
597. As regards the *mens rea* requirement for aiding and abetting, the Appeals Chamber in the AFRC Appeal has confirmed the approach of Trial Chamber II.<sup>1662</sup> In the AFRC Appeals Judgement, the Appeals Chamber stated:

242. In discussing the *mens rea* for aiding and abetting, the Trial Chamber stated:

the *mens rea* required for aiding and abetting is that the accused knew that his acts would assist the commission of the crime by the perpetrator or that he was aware of the substantial likelihood that his acts would assist the

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legal duty assisted, encouraged or lent moral support to the perpetration of the crime, and had a substantial effect on it”; and note further that the Appellant in that case (Sljivancanin argued that the duty to act, which forms the basis of liability must stem from a rule of criminal law and cannot be a general duty (para. 148) but that the Appeal Chamber found it unnecessary to rule on that issue in the circumstances of the case (para. 151).

<sup>1656</sup> *Krstić*, Appeal Judgement, paras. 137, 138, 144 and *Blagojević and Jokić*, Appeal Judgement, para. 127.

<sup>1657</sup> *Limaj et al.*, Trial Judgement, 30 November 2005, para. 516. See also *Kvočka et al.*, Trial Judgement, 2 November 2001, para. 254.

<sup>1658</sup> CDF Appeal Judgement, paras. 70 – 71, and *Blaškić*, Appeal Judgement, 29 July 2004, para. 48.

<sup>1659</sup> Pre-trial brief, para. 152, referring to *Blaškić* Appeal Judgement, para. 48.

<sup>1660</sup> *Ibid.*, para 71, referring to *Blaškić* Appeal Judgement, para. 48.

<sup>1661</sup> CDF Appeal Judgement, para. 71 – 72.

<sup>1662</sup> AFRC Appeal Judgement, paras 242 and 243.

commission of a crime by the perpetrator. However, it is not necessary that the aider and abettor had knowledge of the precise crime that was intended and which was actually committed, as long as he was aware that one of a number of crimes would probably be committed, including the one actually committed.<sup>1663</sup>

243. The Appeals Chamber finds that the Trial Chamber was correct in its analysis. The Appeals Chamber of the ICTY in both *Blaskić* and *Simić* found that it was not necessary to prove that the aider and abettor knew the precise crime that was intended or actually committed by the principal perpetrator. In both cases the ICTY Appeals Chamber held further that liability for aiding and abetting requires proof that the accused knew that one of a number of crimes would probably be committed, that one of those crimes was in fact committed, and that the accused was aware that his conduct assisted in the commission of that crime. The Appeals Chamber endorses this principle.<sup>1664</sup>

598. It is not necessary to show that the aider and abettor shared the *mens rea* of the perpetrator<sup>1665</sup> but it must be shown that the aider and abettor was aware of the relevant *mens rea* on the part of the principal. Thus it must be shown that the aider and abettor was aware of the essential elements of the crime which was ultimately committed by the principal.<sup>1666</sup> Regarding the “awareness” prong of the *mens rea* requirement, such awareness may be inferred from all the relevant circumstances and does not need to be explicitly expressed.<sup>1667</sup>

<sup>1663</sup> *Ibid.*, para. 242, quoting Trial Chamber II in the AFRC Trial Judgement at para. 776.

<sup>1664</sup> AFRC Appeal Judgement, paras. 242-243. See also *Blaškić et al.*, Appeal Judgement, para. 45 which upheld the Appeal’s Chamber’s pronouncement at para. 102 of the Judgement in *Vasiljević* regarding the *actus reus* and *mens rea* of aiding and abetting and at para. 50 confirmed that “it is not necessary that the aider and abettor...know the precise crime that was intended and which in the event was committed. If he is aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed, he has intended to facilitate the commission of that crime, and is guilty as an aider and abettor.”

<sup>1665</sup> *Tadić* Appeal Judgement, para. 229; *Aleksovski* Appeal Judgement, paras. 162-165; *Kunarac* Trial Judgement, para. 392, *Furundžija* Trial Judgement, para. 245

<sup>1666</sup> *Aleksovski* Appeal Judgement, para. 162, referred to in the CDF Trial Judgement, para. 231. See also AFRC Appeal Judgement, para. 244, where the Appeals Chamber observed that the Appeals Chamber of the ICTY in *Aleksovski*, *Krnojelac* and *Brđanin* held that the aider and abettor must be aware of the essential elements of the crime which was ultimately committed by the principal. Although notably, the Appeals Chamber did not interfere with the decision of the Trial Chamber in circumstances where the Trial Judgement did not explicitly refer to the “essential elements” requirement, but instead limited its statements of the law to whether the accused knew or was aware of the substantial likelihood that his acts would assist the commission of a crime by the perpetrator (para 245).

<sup>1667</sup> *Strugar* Trial Judgement, para. 350; *Tadić* Trial Judgement, paras 675-676; *Čelebići* Trial Judgement, paras. 327-328.

**Requirement 1: Taylor's conduct had a substantial effect on the commission of the *actus reus* of the relevant crime performed by another person.**

599. Taylor's significant and substantial contributions to the commission of the crimes charged in this Indictment are discussed in Section II above.

**Requirement 2: Taylor either knew his conduct would substantially assist the commission of the crime; OR was aware of the substantial likelihood that a crime would occur as a consequence of his conduct.**

600. Taylor's knowledge and awareness that crimes would occur as a consequence of his conduct is discussed in Section II.C-F and IV.

**Requirement 3: Taylor was aware that his conduct would assist in the commission of the crime.**

601. As discussed in Sections II and IV, Taylor had a clear intent to act in support of the crimes committed and charged in Counts 1-11. For example, even after the Freetown invasion, Taylor continued to supply ammunition to the RUF. He even encouraged the return of Bockarie to the RUF, a person not only described as a ruthless killer by witnesses for both the prosecution and defence, but a man who even described himself in media broadcasts as "a ruthless commander," promising "I'll kill and kill, and the more they tell me to stop, the more I'll kill."

## VII. C. ORDERING

602. The *actus reus* of "ordering" requires that "a person in a position of authority uses that authority to instruct another to commit an offence."<sup>1668</sup> Ordering may also entail a person in a position of authority using that position to *convince* or *persuade* another to commit an offence.<sup>1669</sup>

603. No formal superior-subordinate relationship between the accused and the perpetrator is necessary for the *actus reus* of ordering.<sup>1670</sup> It is sufficient that there is proof of a position of authority on the part of the accused that would compel another person to

<sup>1668</sup> AFRC Trial Judgement, para. 772. Trial Chamber I adopts a very similar formulation of the *actus reus*, in the RUF Trial Judgement, para. 273. The Appeals Chamber of ICTY adopted an identical formulation of the *actus reus* (above) in *Boškoski* Appeal Judgement, para. 160.

<sup>1669</sup> *Ibid.*, referring to *Blaškić* Appeal Judgement, para. 42; *Kordić and Čerkez* Appeal Judgement, para. 30; *Musema* Trial Judgement, para. 121; *Rutuganda* Trial Judgement, para. 39; *Krstić* Trial Judgement, para. 601, citing to *Akayesu* Trial Judgement, para. 483.

<sup>1670</sup> *Boškoski* Appeal Judgement, para. 164; CDF Trial Judgement, para. 225; RUF Trial Judgement, para. 273.

commit a crime.<sup>1671</sup> Thus an accused may be held liable for orders given within regular military forces and irregular bodies, such as paramilitary forces, in which there is no *de jure* superior-subordinate relationship, provided the accused is vested with an authority that enables him or her to give orders to members of the group.<sup>1672</sup> The necessary authority may be informal and/or of a purely temporary nature.<sup>1673</sup> The order need not be given directly to the perpetrator of the offence.<sup>1674</sup> In other words, the accused need not be the immediate superior of the perpetrator. There is no requirement that the accused be present at the scene of the crime for the accused to be held criminally responsible for ordering.<sup>1675</sup> There is no requirement that the order be given in writing or in any particular form.<sup>1676</sup> An order can be explicit or implicit.<sup>1677</sup> There is no requirement to adduce direct evidence that the order was given.<sup>1678</sup>

604. The existence of an order may be proven through circumstantial evidence.<sup>1679</sup> Circumstantial evidence includes factors such as: the number of illegal acts; the effective command and control exerted over these troops; the widespread occurrence of the acts; the *modus operandi* of similar illegal acts; the location of the superior at the time; and the superior's knowledge of crimes committed by his subordinates.<sup>1680</sup>
605. Trial Chamber I has stated that “a “causal link between the act of ordering and the physical perpetration of a crime [...] also needs to be demonstrated as part of the *actus*

<sup>1671</sup> *Boškoski* Appeal Judgement, para. 164. CDF Trial Judgement, para. 225; RUF Trial Judgement, para. 273: where Trial Chamber I found that it is sufficient that the accused possesses the authority either *de jure* or *de facto* to order the commission of an offence or that such authority can be reasonably inferred.

<sup>1672</sup> *Ibid.*, referring to *Strugar* Trial Judgement, para. 331; *Kordić and Čerkez* Appeal Judgement, para. 28; *Kordić and Čerkez* Trial Judgement, para. 388; *Brđanin* Trial Judgement, para. 270.

<sup>1673</sup> *Ibid.*, referring to *Semanza* Appeal Judgement, para. 363; *Kordić and Čerkez* Trial Judgement, para. 388.

<sup>1674</sup> AFRC Trial Judgement, para. 772, referring to *Branin* Trial Judgement, para. 270 and *Blaškić* Trial Judgement, para. 282, fn 508.

<sup>1675</sup> *Boškoski and Tarčulovski*, para. 125; Dragomir Milošević Appeals Judgement, para. 290.

<sup>1676</sup> *Boškoski*, Appeal Judgement, para. 160.

<sup>1677</sup> *Blaškić*, Trial Judgement, para. 281.

<sup>1678</sup> Pre-trial brief, referring to *Strugar* Trial Judgement, para. 331; *Kordić and Čerkez* Trial Judgement, para. 388; *Blaškić* Trial Judgement, para. 281; Rule 98 Decision para. 295.

<sup>1679</sup> *Ibid.*, referring to *Blaškić* Trial Judgement, para. 281; *Akayesu* Trial Judgement, para. 480 and *Galić* Trial Judgement, para. 171. *Boškoski*, Appeal Judgement, para. 160.

<sup>1680</sup> Pre-trial brief, para. 159, referring to *Galić* Trial Judgement, para. 171; *Blaškić* Trial Judgement, para. 307. See for example, the approach of the Appeals Chamber in *Boškoski*, para. 161. In that case, “the Trial Chamber found that Tarčulovski “led and directed the operation at all stages on 10,11 and 12 August” and that “[t]he actions of the police in the village [of Ljuboten] were at his direction.” These actions included the murders of Rami Jusufi, Sulejman Bajrami, Muharem Ramadani, wanton destruction of a number of houses owned by Albanian villagers and cruel treatment of thirteen individuals. The Trial Chamber also concluded that the predominant objective of the operation was to indiscriminately attack Albanian villagers and their property. The Appeals Chamber is satisfied that these findings on Tarčulovski’s directions are a sufficient basis for the Trial Chamber’s conclusion that he instructed and ordered the members of his police group to commit the crimes at issue.”

*reus* of ordering” but that this link need be such as to show that the offence would not have been perpetrated in the absence of the order.”<sup>1681</sup> The causal link that needs to be established is analogous to that which is required for instigating.<sup>1682</sup>

606. The *mens rea* for ordering requires that “the accused acted with direct intent in relation to his own ordering or with the awareness of the substantial likelihood that a crime will be committed in the execution of that order.”<sup>1683</sup> The state of mind of an accused need not be explicit and may be inferred from all the circumstances, provided that it is the only reasonable inference available on the evidence.<sup>1684</sup> The Appeals Chamber of the ICTY in the *Dragomir Milošević* noted that “an order does not necessarily need to be explicit in relation to the consequences it will have.”<sup>1685</sup>

## ORDERED

**Requirement 1: One or more persons, other than Taylor, performed the *actus reus* of the crime as a perpetrator, with or without the participation of Taylor.**

607. The *actus reus* of the crimes in Counts 1-11 are detailed in Section IX.

**Requirement 2: The perpetrator acted in execution of or otherwise in furtherance of an express or implied order, given directly or indirectly by Taylor to a person or group over whom Taylor had authority to order.**

608. Details of Taylor’s acts and influence over the RUF and its allies and contribution to the crimes are detailed in Section II and Section VIII. The evidence that the AFRC/RUF acted in alliance during the time periods and locations for the crimes charged in this indictment is discussed in Section V. Specifically, the evidence has shown that Taylor, as the person who created the RUF military force and as its principal benefactor throughout the indictment period, issued explicit and implicit orders, instructions, and directions to the RUF and the AFRC. For example, Taylor gave explicit instructions to

<sup>1681</sup> *Ibid.* RUF Trial Judgement, para. 273.

<sup>1682</sup> *Strugar*, Trial Judgement, January 31, 2005, para. 332 noting that “this form of liability is closely associated with ‘instigating’, subject to the additional requirement that the person ordering the commission of a crime have authority over the person physically perpetrating the offence, a causal link between the act of ordering and the physical perpetration of a crime, analogous to that which is required for instigating, also needs to be demonstrated as part of the *actus reus* of ordering.”

<sup>1683</sup> AFRC Trial Judgement, para. 773, referring to *Kordić* Appeal Judgement, paras 29, 30 and *Blaškić* Appeal Judgement, para. 42. See also: CDF Trial Judgement, at para. 226; recently the *Boškoski* Appeal Judgement, para. 174.

<sup>1684</sup> *Ibid.*, referring to *Vasiljević* Appeal Judgement, para. 120; see also *Strugar* Trial Judgement, para. 333.

<sup>1685</sup> *Dragomir Milošević* Appeal Judgement, para. 267. See also *Vasiljević* Appeal Judgement, para. 120; see also *Strugar* Trial Judgement, para. 333



attack and hold the diamond mining regions of Sierra Leone; he gave instructions and made arrangements for the groups to launch the December 1998 offensive culminating in the attack on Freetown in January 1999; and he gave explicit instructions to the RUF to evade the disarmament provisions of the Abidjan and Lomé peace agreements

**Requirement 3: Taylor possessed the *mens rea* of the crime committed by the perpetrator or was aware of the substantial likelihood that the crimes would be committed as a consequence of the order.**

609. The evidence that Taylor possessed the *mens rea* for the crimes charged and was aware of the substantial likelihood that the crime would be committed as a consequence of his orders is discussed in Section IV above.

#### VII. D. PLANNING

610. In order to be responsible for “planning” a crime under Article 6(1) of the Statute, an Accused must have, alone or jointly, planned, designed or organised the commission of the *actus reus* of the relevant crime, at both the preparatory and execution phases.<sup>1686</sup> Moreover, the *actus reus* of a crime must as a rule have been performed, whether with the participation of the accused or not, as part of the execution of the plan.<sup>1687</sup> It is not necessary to show that *but for* the Accused planning the crime would not have occurred but rather, it is sufficient to demonstrate that the planning was a factor substantially contributing to such criminal conduct.<sup>1688</sup> The *mens rea* required for planning crimes requires proof that the Accused either acted with direct intent that the crime be committed in relation to his own planning or with the awareness of the **substantial likelihood** that a crime would be committed in the execution of that plan.<sup>1689</sup> Moreover, even if the objective and character of an operation is itself legitimate, this does not preclude criminal liability where the Accused is aware of the substantial likelihood that the plan will result in a crime.<sup>1690</sup>

<sup>1686</sup> *Krstić* Trial Judgement, para. 601.

<sup>1687</sup> See Article 4(3)(d) ICTY Statute concerning attempt to commit genocide.

<sup>1688</sup> *Prosecutor v. Brima et. al.*, “Decision on Defence Motions for Judgement of Acquittal Pursuant to Rule 98,” 31 March 2006. 8 SCSL-04-16-T-469-1, paragraph 284; *Prosecutor v. Limaj* Trial Judgement, para 513; *Prosecutor v. Kordić*, Appeals Chamber Judgement, 17 December 2004, para. 26.

<sup>1689</sup> *Prosecutor v. Brima et. al.*, “Decision on Defence Motions for Judgement of Acquittal Pursuant to Rule 98,” 31 March 2006. 8 SCSL-04-16-T-469-1, paragraph 284. *Kordić* Appeals Judgement, para 31.

<sup>1690</sup> *Boškoski and Tarčulovski*, Trial Judgement 10 July 2008, para. 172.

**Requirement 1: Taylor, acting jointly with RUF, AFRC and Liberian subordinates, designed or organised the commission of the *actus reus* of the crime, at both the preparatory and execution phases.**

611. To avoid redundancy, the Prosecution relies on the details of the evidence of Taylor's contributions to the crimes as outlined in Section II, as proof that Taylor designed or organized the commission of the *actus reus* of the crimes. This evidence shows that Taylor forcibly conscripted or recruited the Vanguard of the RUF and trained them at Camp Naama, including training in how to force civilian compliance by committing acts to terrorize the population. Taylor organized and designed the invasion of Sierra Leone, and his experienced NPFL forces led the fighting in the initial phase of the conflict. During the indictment period, Taylor designed strategy for the AFRC Junta, the RUF and AFRC forces, including selecting strategic areas to attack and control, including Koindu and the capital Freetown, and organizing the delivery of arms and ammunition needed to carry out the attacks. The evidence proves that Taylor planned and organized the theft of Sierra Leone's diamond resources from their rightful owners through forced mining of diamonds and their delivery through Monrovia, either to Taylor personally or his nominees. Taylor arranged for Ibrahim Bah to pass through Liberia's closed borders in with equipment that allowed for more efficient mechanized mining. The diamonds stolen from Sierra Leone were used both to finance the rebel's military operations and to personally benefit Taylor. Taylor's contributions through planning included promoting the alliance between the RUF and AFRC forces and efforts to keep them working together. Further, the evidence from key Defence witnesses shows that Taylor organized and designed the rebels international public relations campaign and planned and promoted their contacts with other sources of outside support.
612. All of this planning was effected through both radio and satellite phone conversations with Foday Sankoh, Johnny Paul Koroma, Sam Bockarie, and Issa Sesay, through meetings in Monrovia with all of these leaders and through messages delivered through emissaries including Daniel Tamba and Ibrahim Bah.

**Requirement 2: Taylor intended the crimes to be committed or was aware there was a substantial likelihood that the crimes would be committed.**

613. Taylor's *mens rea*, his intent and knowledge of the crimes committed in Sierra Leone, is discussed in detail in Section IV. Taylor admitted in his own testimony that the whole world knew of the atrocities in Sierra Leone. The RUF was already infamous before 30 November 1996, the start of the indictment period, for its brutality. The RUF used child soldiers, enslaved and regularly stole from civilians, committed acts of sexual and physical violence and murder following the example of their big brothers from Taylor's NPFL, with the single distinction that the AFRC/RUF used amputations where the NPFL had used cannibalism to terrorize. In particular, the evidence shows that the RUF was already infamous for the use of terror, and in particular amputations, during its STOP ELECTION campaign in early 1996. In all of Taylor's planning for the war in Sierra Leone, he assisted the rebels with full awareness that they used terror as a tactic and were routinely committing the crimes charged in this indictment. It is therefore clear that in all of Taylor's planning to promote the AFRC/RUF alliance, and his design and organization of their operations and the supply of necessary logistics, Taylor was aware of the substantial likelihood - indeed from the evidence presented, the near certainty - that his planning would result in the commission of the eleven counts charged in this indictment.

**Requirement 3: A person or persons, either including or excluding the participation of Taylor, performed the *actus reus* within the execution of the plan.**

614. The *actus reus* of the crimes in Counts 1-11 are detailed in Section IX. Taylor's contribution to the *actus reus* is discussed in Sections II and III.

#### **VII.E. INSTIGATING**

615. The *actus reus* of "instigating" "requires that the accused prompted another person to commit the offence,"<sup>1691</sup> and that "the instigation was a factor substantially contributing to such criminal conduct."<sup>1692</sup> This Trial Chamber has explained that "prompting

<sup>1691</sup> AFRC Trial Judgement, para. 770.

<sup>1692</sup> *Ibid.* See also the RUF Trial Judgement, para. 271 in which Trial Chamber I viewed "instigating" as "urging, encouraging or prompting another persons to commit an offence" and articulated the *actus resus* as an "act or omission, covering both express and implied conduct of the Accused, which is shown to be "a factor substantially contributing to the conduct of another person committing the crime" (footnotes omitted). CDF Appeal Judgement, para. 51, referring to CDF Trial Judgement, para. 223. In the ad hoc tribunal jurisprudence the terms "factor substantially contributing" and "factor clearly contributing" and "clear contributing factor"

another to commit an offence...requires more than merely facilitating the commission of the principal offence, which may suffice for aiding and abetting” and that “it requires some kind of “influencing the principal perpetrator by way of inciting, soliciting or otherwise inducing him or her to commit the crime.”<sup>1693</sup> As with planning, it is not necessary that an accused explicitly prompt the perpetrator to commit the crime in question. Rather, an accused can be held responsible for prompting an act or omission with the awareness of the substantial likelihood that it will result in a crime.<sup>1694</sup> An accused need not be present at the scene of the crime.<sup>1695</sup> Rather, proof of the accused having instigated the crime can be provided by circumstantial evidence.<sup>1696</sup> An accused can be held liable for both acts and omissions and express and implied conduct, which is shown to be a factor substantially contributing to the conduct of another person committing the crime.<sup>1697</sup>

616. A causal relationship between the instigation and the physical perpetration of the crime must be demonstrated. In other words, it must be proven that the contribution of the accused in fact had an effect on the commission of the crime, “although it is not necessary to prove that the crime would not have occurred without the Accused’s

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have been adopted; see respectively: *Kordić and Čerkez*, Appela Judgement, December 17, 2004, para. 27; *Brđanin*, Trial Judgement, September 1, 2004, para. 269 and *Galić*, Trial Judgement, December 5, 2003, para. 168.

<sup>1693</sup> AFRC Trial Judgement, para. 769, referring to *Orić* Trial Judgement, paras. 270-271; *Kordić* Appeal Judgement, para. 27; *Kajelijeli* Trial Judgement, para. 762.

<sup>1694</sup> *Boškoski* Appeal Judgement, paras. 155-157. See also the discussion of the same in relation to planning at para. 606 above. See also *Kanyarukiga* Trial Judgement, para. 619, citing *Nahimana et al.* Appeal Judgement para. 480 and *Kordić and Čerkez* Appeal Judgement paras. 29, 32.

<sup>1695</sup> *Boškoski* Appeal Judgement, paras. 155-157, at para. 157, the Appeals Chamber noted that “no evidence suggested that Tarčulovski explicitly prompted police members to commit the crimes charged. However, the Trial Chamber found that Tarčulovski was responsible for instigation on the basis of the evidence, including evidence suggesting (i) that he was responsible for the preparation of the operation with the predominant objective to indiscriminately attack Albanian villagers and their property; (ii) that he personally led this operation; (iii) that he was present in Ljuboten while the crimes were committed; and (iv) that he authorized the police members not to conduct an inspection in respect of the deaths of three men.”

<sup>1696</sup> *Boškoski* Appeal Judgement, paras. 155-157, at para. 157, the Appeals Chamber noted that “no evidence suggested that Tarčulovski explicitly prompted police members to commit the crimes charged. However, the Trial Chamber found that Tarčulovski was responsible for instigation on the basis of the evidence, including evidence suggesting (i) that he was responsible for the preparation of the operation with the predominant objective to indiscriminately attack Albanian villagers and their property; (ii) that he personally led this operation; (iii) that he was present in Ljuboten while the crimes were committed; and (iv) that he authorized the police members not to conduct an inspection in respect of the deaths of three men.”

<sup>1697</sup> CDF Appeal Judgement, para. 51, referring to CDF Trial Judgement, para. 223. See also AFRC Trial Judgement, at para. 769. See also *Galić*, Trial Judgement, December 5, 2003, para. 168, where the ICTY Trial Chamber stated that “it has been held in relation to ‘instigating’ that omissions amount to instigation in circumstances where a commander has created an environment permissive of criminal behaviour by subordinates.” Note also the *Blaskić*, Trial Judgement, para. 337, where the Trial Chamber held that a superior’s persistent failure to prevent or punish crimes by his subordinates may constitute instigation.

involvement.”<sup>1698</sup> Trial Chamber II has also acknowledged that “if a principal perpetrator has definitely decided to commit the crime, further encouragement or moral support may still qualify as aiding and abetting.”<sup>1699</sup>

617. The *mens rea* for instigating requires that the accused acted with direct intent or awareness of the substantial likelihood that a crime would be committed in the execution of that instigation.<sup>1700</sup>

**Requirement 1: One or more persons, other than Taylor, performed the *actus reus* of the crime as a perpetrator, with or without the participation of Taylor.**

618. The *actus reus* of the crimes in Counts 1-11 are detailed in Section IX.

**Requirement 2: Taylor directly provoked, prompted or otherwise induced the conduct of the other person(s) in the sense the accused substantially contributed to the conduct of the perpetrator(s).**

619. In his meetings and communications with AFRC/RUF leaders such as Sam Bockarie, Taylor induced the rebels to continue their attacks and encouraged criminal conduct. For example, Taylor encouraged Bockarie to conduct the December 1998 offensive so as to make the operation “fearful.”<sup>1701</sup> From the time he created the RUF military force in Liberia, Taylor induced the rebels to model their ruthless terror campaign on the example set by his own NPFL forces.

**Requirement 3: Taylor either intended to directly provoke, prompt or otherwise induce the commission of the crime or he was aware of the substantial likelihood that the crime committed would be a consequence of the acts instigated.**

620. The evidence that Taylor possessed the *mens rea* for the crimes charged and/or was aware of the substantial likelihood that the crime would be committed as a consequence of his instigation is discussed in Section IV above.

<sup>1698</sup> CDF Appeal Judgement, para. 51, referring to CDF Trial Judgement, para. 223. See also AFRC Trial Judgement, at para. 769. See in particular, para. 85 in which the Appeals Chamber held that in the CDF case, in order to show a causal link between Kondewa’s speech and the crimes committed in Tongo Town, the Prosecution must lead evidence to show that the Kamajors who were present at the First Passing Out Parade at which Kondewa’s speech was made were the same Kamajors who subsequently committed the crimes in Tongo Town.” See also *Kordić and Čerkez*, Trial Judgement, February 26, 2001, para. 387.

<sup>1699</sup> AFRC Trial Judgement, para. 771, referring to *Orić*, Trial Judgement, para. 271.

<sup>1700</sup> AFRC Trial Judgement, para. 770; *Boškoski* Appeal Judgement, para. 174. Trial Chamber I in the RUF Trial Judgement, para. 271 adopted a slightly different wording: that the *mens rea* of instigating is an intention “to provoke or induce the commission of the crime,” or a “reasonable knowledge that a crime would likely be committed as a result of that instigation”

<sup>1701</sup> TF1-532, TT, 11 March 2008, p. 5797.

## VIII. 6(3) MODE OF LIABILITY - SUPERIOR RESPONSIBILITY

### INTRODUCTION

621. The evidence in this case establishes beyond reasonable doubt that the Accused incurs individual criminal liability for the charged crimes pursuant to Article 6 (3) of the Statute. The evidence proves that: (i) the existence of a superior-subordinate relationship between Charles Taylor and the perpetrators of the crimes; (ii) Taylor knew or had reason to know that the crimes were about to be or had been committed; and (iii) Taylor failed to take necessary and reasonable measures to prevent the crimes or punish the perpetrators thereof.<sup>1702</sup>

### **REQUIREMENT 1: THE EXISTENCE OF A SUPERIOR-SUBORDINATE RELATIONSHIP BETWEEN THE ACCUSED AS A SUPERIOR AND THE PERPETRATOR/S OF THE CRIME AS A SUBORDINATE/S**

622. Taylor's administration during the whole period from 1989 to 2003 was associated with a "marked personalization of power" in the sense of the elimination of rivals and exclusive decision-making authority.<sup>1703</sup> The evidence establishes beyond reasonable doubt that the Accused personalized his power over the RUF, and later the AFRC/RUF, exercising ultimate decision making authority over these forces. The evidence establishes beyond reasonable doubt that the Accused was the *de facto* superior of the members of the RUF, AFRC/RUF who committed the charged crimes during the Indictment period.<sup>1704</sup> He was also the *de facto* and/or *de jure* superior of those Liberian forces he sent to Sierra Leone who committed crimes there, such as the his Liberian members of the Red Lion Battalion who took part in the crimes committed as that battalion made its way from Rosos into Freetown and those committed in Freetown itself.<sup>1705</sup> The fact that Taylor was not the immediate superior of the perpetrators of the

<sup>1702</sup> AFRC Trial Judgement, para. 781. See also the RUF Appeal Judgement, para. 842, which affirms a similar formulation adopted by Trial Chamber I, namely that three elements must be shown: (i) the existence of a superior-subordinate relationship between the superior and the offender of the criminal act; (ii) that the superior knew or had reason to know that his subordinate was about to commit a crime or had done so; and (iii) that the superior failed to take the necessary and reasonable measures to prevent his subordinate's criminal act or punish his subordinate.

<sup>1703</sup> Exh. P-31, p. 00026608.

<sup>1704</sup> *Kordić and Čerkez* Trial Judgement, paras 406, 410, 416. See also *Čelebići* Appeal Judgement, 20 February 2001, para. 254; AFRC Appeal Judgement, para. 289; AFRC Trial Judgement, para. 784.

<sup>1705</sup> TF1-360, TT, 6 February 2008, pp. 3243-44, 3251; Exh. P-351B, pp. 23616-18; & Exh. P-349B, pp. 23608-11; Exh.P-129, pp. 00031466 & 00031467, § 241 & 242; President's power to appoint Director and Assistant Director of SSS; Accused, TT, 2 February 2010, p. 34645; 23 November 2009, p. 32301: the Accused admitted that he was commander-in-chief of the armed forces and controlled the SSS; *Kordić and Čerkez* Trial Judgement, paras. 406,410,416. See also *Čelebići* Appeal Judgement, 20 February 2001, para. 254; AFRC Appeal Judgement, para. 289. AFRC Trial Judgement, para. 784.

charged crimes is of no consequence.<sup>1706</sup> The RUF, AFRC/RUF, Taylor's NPFL and militias and paramilitary groups, all had established chains of command, established headquarters and geographic areas over which they exercised control.<sup>1707</sup>

623. The Accused's responsibility as a superior for the actions of his subordinates arises from his relationship with these various armed groups in Sierra Leone and the government forces and organized armed groups in Liberia. At the outset, the Prosecution sets forth the command structure of these groups, highlighting changes in leadership within each group, over time, and the Accused's links with the various leaders.

**Superior – Subordinate relationship: Command Structure: - *The NPFL and RUF in the Early Years of the War in Sierra Leone***

624. The evidence demonstrates that the RUF, later AFRC/RUF was an organised armed group with well established structures, enabling the functioning of an effective chain of command and a system that supported the flow of orders and instructions from superiors, and reporting from subordinates.<sup>1708</sup> Witnesses for the Prosecution and the Defence all testified corroboratively to the existence of a structured chain of command within RUF, later AFRC/RUF and the NPFL.

625. The group invading Sierra Leone from Liberia in March 1991 was one composite force comprising Sierra Leonean and Liberian fighters.<sup>1709</sup> Although belonging to two different armed groups - RUF and NPFL, in substance there was no distinction between the two as they were all under a single commander-in-chief who was the Accused. The senior leadership was predominantly Liberian NPFL commanders, who made it clear that they were answerable to no one but the Accused. Foday Sankoh, himself was subservient to the Accused.

626. Exhibit P-54 shows the NPFL command structure *circa* 1990-1991, and is deemed to reflect accurately the position of the RUF within the structure.<sup>1710</sup> Exhibit P-55 shows

<sup>1706</sup> *Strugar*, Trial Judgement, 31 January 2005, paras. 361, 363 – 366.

<sup>1707</sup> See Section II – Manpower.

<sup>1708</sup> e.g. Exhs. P-55, P-56, P-59, P-60, P-62; TF1-516, TT, 8 April 2008, p. 6835; [REDACTED]; [REDACTED]; DCT-102, TT, 9 November 2010, pp. 49078-80; DCT-068, TT, 11 March 2010, p. 37085; DCT-306, TT, 19 April 2010, p. 39286; [REDACTED]; [REDACTED]; Exhibit D-32, pp. 4-6.

<sup>1709</sup> [REDACTED]; TF1-367, TT, 20 August 2008, pp. 14101-2; [REDACTED]; [REDACTED]; DCT-172, TT, 5 July 2010, pp. 43639-40.

<sup>1710</sup> [REDACTED]. See also TF1-516, TT, 8 April 2008, p. 6827.

the RUF command structure after the invasion of Sierra Leone *circa* March-June 1991.<sup>1711</sup>

**Superior – Subordinate relationship: RUF Command structure prior to the 1997 Coup**

627. The withdrawal of some of his NPFL forces from Sierra Leone in 1992 did not mean an end to the Accused's leadership role over the RUF. The RUF command structure set up by Sankoh comprised Special Forces,<sup>1712</sup> Vanguard<sup>1713</sup> and Junior Commandos<sup>1714</sup> who were mostly Sierra Leoneans. Taylor's NPFL also had junior commandos, those trained in country as were the RUF junior commandos.<sup>1715</sup>

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>1716</sup>

628. This structure, an exact replica of the NPFL organisational structure in Liberia, points to the strong influential role by the Accused and his NPFL over the activities of the RUF. A significant number of Liberian NPFL fighters remained with the RUF in Sierra Leone and were part of the structure, while Foday Sankoh continued to look up to the Accused in Liberia as his "Chief" and "Big Brother."<sup>1717</sup>

629. During the period when access to the Sierra Leone/Liberia border was limited, the Accused maintained his position of individual or joint control and authority over the RUF through radio communications with Sankoh.<sup>1718</sup>

630. In 1994 after losing ground to Sierra Leone Government forces in many areas, Sankoh turned to the Accused, for direction and guidance.<sup>1719</sup> A number of significant events in the life of the RUF from 1994-1996 led to successive changes in leadership and the appointment of Sam Bockarie as Interim leader in 1996, setting the tone for a new era in the RUF's relationship with the Accused.

<sup>1711</sup> [REDACTED]. See also TF1-275, TT, 20 February 2008, pp. 4405-7.

<sup>1712</sup> TF1-275, TT, 20 February 2008, pp. 4328-29; See also TF1-532, TT, 10 March 2008, p. 5664-65: Special Forces were Liberians "who entered with the war and those who were trained in Libya and Burkina Faso."; DCT-179, TT, 22 February 2010, pp. 35599-01.

<sup>1713</sup> [REDACTED]; TF1-571, TT, 9 May 2008, p. 9414: stating vanguards were "trained in Liberia for the RUF mission"; See also DCT-215, TT, 26 March 2010, p. 38099; DCT-172, TT, 5 July 2010, p. 43606; DCT-292, TT, 1 June 2010, p. 41734.

<sup>1714</sup> TF1-516, TT, 8 April 2008, p. 6827; TF1-360, TT, 4 February 2008, pp. 3042-43; TF1-516, TT, 8 April 2008, p. 6833; TF1-045, TT, 12 November 2008, pp. 20073-74; DCT-025, TT, 17 March 2010, p. 37435; DCT-062, TT, 26 April 2010, p. 40002.

<sup>1715</sup> TF1-406, TT, 10 January 2008, pp. 918-20; Accused, TT, 16 July 2009, pp. 24620-8, 24697-701.

<sup>1716</sup> [REDACTED].  
<sup>1717</sup> See Section II.A - Taylor was Father, Godfather, Chief of RUF, AFRC.

<sup>1718</sup> See Section II – Taylor's Responsibility for the Crimes in Sierra Leone (Communications).

<sup>1719</sup> See Section VII - Ordering.



631. The RUF command structure from *circa* February to October 1996 is set out in Exhibit P-56.<sup>1720</sup> Within the RUF structure, special units included SBUs,<sup>1721</sup> Black Guards,<sup>1722</sup> Bodyguards,<sup>1723</sup> and Intelligence Defence Unit (IDU).<sup>1724</sup> Notably, the IDU and radio communications unit enabled the flow of communication - commands, instructions, orders, and the reporting of complaints to superiors enhanced the Accused's capacity to keep himself informed about crimes committed by the RUF.<sup>1725</sup>

**Superior – Subordinate relationship: command structure after Arrest of Foday Sankoh in March 1997**

632. The RUF changed in structure after Sankoh's arrest in Nigeria in March 1997.<sup>1726</sup> Daniel Tamba, a.k.a. "Jungle," a member of the SSS under Charles Taylor, communicated a message from Taylor to Bockarie over the VHS radio about ranks, according to which Bockarie and Sesay were promoted and were to take instructions and command from Taylor until Sankoh's release.<sup>1727</sup>

633. This event marked the beginning of Taylor's father-son relationship with Sam Bockarie.<sup>1728</sup> Sankoh's arrest took place just two months before the AFRC Coup in Freetown which gave rise to the AFRC/RUF Alliance. Significantly also, the Indictment period commences just before this event took place.

<sup>1720</sup> [REDACTED]; Exh. D-32.

<sup>1721</sup> Stephen Ellis, TT, 17 January 2008, p. 1493; TF1-548, TT, 8 February 2008, pp. 3483-84; DCT-215, TT, 30 March 2010, pp. 38322-24; DCT-306, TT, 20 April 2010, pp. 39456-58; DCT-179, TT, 2 March 2010, pp. 36539-41; Exh. D-114B, p. 12, para 85F; Exh D-118, p. 2: "Small boy soldiers, some as young as nine and ten years old...[More] of such orphans (now put together in a "Small Boys Unit") joined Taylor's forces"; See also, Accused TT, 28 January 2010, pp. 34400-2.

<sup>1722</sup> [REDACTED]; TF1-567, TT, 2 July 2008, p. 12835, [REDACTED]

[REDACTED] DCT-172, TT, 12 July 2010, p. 44296; Jackson Swarray was the Black Guard Commander; Exh. P-362, pp. 00009490-91; DCT-292, TT, 2 June 2010, pp. 41951; DCT-146, TT, 12 April 2010, pp. 38669-70; Exh. P-149, pp. 00025494-95.

<sup>1723</sup> TF1-375, TT, 23 June 2008, pp. 12526, 12546-47; TF1-367, TT, 20 August 2008, p. 14143; [REDACTED] TF1-406, 14 January 2008, pp. 1200-02; TF1-045, TT, 18 November 2008, p. 20549; DCT-215, TT, 26 March 2010, p. 38170.

<sup>1724</sup> TF1-337, TT, 4 March 2008, p. 5236-38, 6 March 2008, p. 5393; TF1-577, TT, 5 June 2008, p. 11088-89; TF1-568, TT, 12 September 2008, p. 16115; DCT-172, TT, 12 July 2010, p. 44194 and 14 July 2010, p. 44432 and 26 July 2010, pp. 44605-06; DCT-102, TT, 1 November 2010, p. 48503

<sup>1725</sup> TF1-337, TT, 4 March 2008, p. 5237-43 and 6 March 2008, pp. 5393-94; [REDACTED] TF1-045, TT, 13 November 2008, p. 20179.

<sup>1726</sup> Exh. P-31, p. 00026611.

<sup>1727</sup> TF1-045, TT, 12 November 2008, pp. 20125-28; TF1-338, TT, 1 September 2008, pp. 15115-16; TF1-274, TT, 11 December 2008, p. 22255; [REDACTED]

[REDACTED] See also Section II - Strategic Command, Instruction, Direction, Guidance and Section VII.

<sup>1728</sup> See Section II B – Strategic Instruction, Direction, Guidance and Section VII.

**Superior – Subordinate relationship:** *Command structure AFRC/RUF Junta Alliance – Post January 1999*

634. The command structure of the AFRC/RUF Alliance up to Post January 1999 is discussed at Sections V and VI of this Brief. The extent of the Accused's support to the AFRC/RUF during this period points overwhelmingly to his exercise of effective control over the AFRC/RUF Alliance.<sup>1729</sup>
635. Following the removal of the Junta from power by ECOMOG, Johnny Paul Koroma stated at a meeting in Kono that Bockarie would now be Chief of Defence Staff in control of the AFRC and RUF forces. Most AFRC remained in the Alliance and reported to Bockarie. Bockarie was headquartered in Buedu, Kailahun District. Bockarie's next in command was Issa Sesay. Bockarie took his instructions from the Accused and/or his senior level subordinates.<sup>1730</sup> As the evidence demonstrates, once fully embodied with power and authority over the AFRC/RUF forces, Bockarie would listen to, or take orders from no one but the Accused.<sup>1731</sup>
636. The evidence discussed in Sections V and VI illustrates the extent of the Accused's authority and influence over the AFRC/RUF. By the time of Sankoh's return from detention in Nigeria, the Accused's influence and control had become so entrenched that allegiance had completely shifted from that shared between Taylor and Sankoh to Taylor alone.<sup>1732</sup> A telling example of this influence was the Accused's ability to settle disputes among the AFRC/RUF leaders. Bockarie, Koroma and Sankoh came to Monrovia after the Junta period for the "chief," Taylor, to settle a dispute between them. Koroma was dissatisfied with the decision but he nonetheless had to accept it.<sup>1733</sup>

<sup>1729</sup> See also Section II C – Taylor Maintained and Strengthened the AFRC/RUF Alliance.

<sup>1730</sup> See Section II – Taylor's Responsibility for the Crimes in Sierra Leone; Section V – Evidence of AFRC/RUF Alliance; Section VII - Ordering.

<sup>1731</sup> Exh. P-430B: Sam Bockarie's loyalty to the Accused even bordered on intransigence. pre-Jan 6 invasion threat: "I will kill and kill ....only .....will tell me to stop." See also Section II B – Strategic Instruction, Direction, Guidance; Maintained and Strengthened the AFRC/RUF Alliance); Section V – Evidence of AFRC/RUF Alliance; Section VII - Ordering.

<sup>1732</sup> See Section II C – Strategic Instruction, Direction, Guidance; Section VII - Ordering.

<sup>1733</sup> TF1-561, TT, 15 May 2008, pp. 9953-9954.

## Political and Military Structure in Liberia during Taylor's Presidency

637. After Taylor became President the Liberian forces over whom he had control and whose members interacted with the AFRC/RUF to a greater or lesser extent, included the Armed Forces of Liberia (AFL),<sup>1734</sup> Special Security Service (SSS),<sup>1735</sup> Jungle Fire,<sup>1736</sup> Anti-Terrorism Unit (ATU),<sup>1737</sup> and SOD, Death Squad Unit & Wild Geese Unit.<sup>1738</sup>
638. After the May 1997 coup and resultant control over diamond mining areas in Sierra Leone, Taylor now had the ability to pillage the resources of Sierra Leone in particular the diamonds, on a wider scale than in the past.

### Superior – Subordinate relationship: Taylor's positions of authority

#### *Taylor's relationship with key actors/SL rebel leaders*

639. Limited physical access across the Sierra Leone/Liberia border did not prevent exercise of control over the RUF by the Accused.<sup>1739</sup> He was able to exercise and maintain effective control of the RUF, AFRC/RUF through his close association with and control

<sup>1734</sup> TF1-375, TT, 24 June 2008, p. 12619-22. In 1999, when AFRC/RUF fighters crossed to Foya in Liberia to assist their GoL "brothers" attacked by Mosquito Spray's group, Eagle was the overall boss while Christopher Varmoh, Liberian Mosquito, was the overall commander and battalion commander for the AFL.

<sup>1735</sup> TF1-516, TT, 9 April 2008, p. 7060; TF1-579, TT, 5 November 2008, pp. 19829; TF1-399, TT, 13 March 2008, pp. 6054-57; DCT-179, TT, 24 February 2010, p. 35870; DCT-215, TT, 26 March 2010, p. 38174, Accused, TTs, 21 July 2009, p. 24905-06 & 11 August 2009, p. 26518. The SSS was the Special Security Service with Benjamin Yeaten as director - with Defence Minister subordinate to Yeaten in accordance with Taylor's directive. Deputy for operations was Joseph Montgomery, and others included Uriah Taylor and Varmuyan Sherif, Zigzag Marzah as Colonel at the Executive Mansion (SSS) and Major General for field operations in the military but demoted to Captain (SSS) for criticising Yeaten when Sam Dokie was killed.

<sup>1736</sup> TF1-516, TT, 9 April 2008, p. 7060, Corinne Dufka, TT, 22 January 2008, p. 1833; [REDACTED]; TF1-579, TT, 6 November 2008, 19993-97; DCT-008, TTs, 24 August 2010, pp. 47007-09 & 6 September 2010, p. 48051. The Jungle Fire Unit was a pro-government militia unit operating directly under Yeaten - a sub unit within the SSS.

<sup>1737</sup> TF1-590, TTs, 13 June 2008, pp. 11757-59, 11796 & 16 June 2008, p. 11831; TF1-406, TT, 9 January 2008, p. 880, 898; [REDACTED]; TF1-388, TTs, 10 July 2008, p. 13452 & 16 July 2008, p. 13847; [REDACTED], TF1-561, TTs, 15 May 2008, p. 10010 & 21 May 2008, p. 10381; DCT-008, TT, 31 August 2010, p. 47529; Accused, TT, 25 August 2009, p. 27640. The ATU was created in 2000, based and in control of Gbatala. First commanded by Chucky Taylor until 2003 under a brief command by Yanks Smythe reporting directly to Taylor. There were Sierra Leoneans within the ATU. Its mission was to secure the movement of the President - it provided external bodyguards to the President - and it was paid from the pocket of the government. The ATU was similar to the special security but had a military operation and was more powerful and well armed, "they could do anything to anybody because they only reported to the President." They had "no regard for anybody." A sub-unit was the Demon Forces who were the Special Forces for Chucky Taylor.

<sup>1738</sup> TF1-516, TT, 9 April 2008, p. 7060, TF1-388, TT, 10 July 2008, p. 13387; TF1-399, TT, 12 March 2008, p. 5902, TF1-539, TT, 10 June 2008, pp. 11412-13, TF1-375, TT, 24 June 2008, pp. 12679-80, TF1-597, TT, 02 June 2008, pp. 10661-62; TF1-406, TT, 9 January 2008, pp. 879-80. SOD (Special Operational Division) was a sub unit of the Liberia National Police operating under the control, direction and authority of the Accused within Liberia. The Death Squad unit was commanded by Zigzag Marzah working directly under Yeaten who was the overall supervisor. The Wild Geese Unit was a standby terrorist unit headquartered in Gbarnga.

<sup>1739</sup> See Section II – Taylor's Responsibility for the Crimes in Sierra Leone.

over the leadership of the organisation over time. Through Sankoh, Bockarie, Johnny Paul Koroma and Issa Sesay, he maintained a firm grip on the RUF and later AFRC/RUF and their affairs. The dynamic of Taylor's relationship with each of these leaders was distinct. However, the constant was that Taylor was the undisputed senior leader, the father, the godfather, the chief, in all these working relationships.<sup>1740</sup>

**Superior-Subordinate relationship: *Effective Control***<sup>1741</sup>

640. The evidence establishes that Charles Taylor exercised effective control over the RUF, AFRC/RUF and his Liberian subordinates who participated in the commission of the charged crimes in Sierra Leone. He exercised such authority individually and through his Liberian forces and the leaders and commanders of the RUF, AFRC/RUF, in his civilian and commander-in-chief capacities.<sup>1742</sup> Throughout the conflict, the Accused had the material ability to prevent or punish the perpetrators of the charged crimes, including to turn the matters over for investigation.<sup>1743</sup>
641. Only the Accused had the ability to punish in the NPFL, and when he ordered something it was done or serious consequences followed.<sup>1744</sup> Only Taylor, as commander-in-chief, had the authority to order someone to be executed as a punishment for committing crimes.<sup>1745</sup> "No execution takes place in NPFL if Taylor does not authorise it, it will become illegal."<sup>1746</sup> It was not possible for anyone to disobey an order from Taylor—anyone who did so would be punished severely.<sup>1747</sup>
642. "The sole commander-in-chief of this revolution" was "Taylor." "If you don't take orders from Taylor but someone else you would be punished. Taylor insisted that

<sup>1740</sup> See Section XII – Defence Case.

<sup>1741</sup> AFRC Appeal Judgement, para. 289.

<sup>1742</sup> AFRC Appeal Judgement, para. 94; See also, AFRC Appeal Judgement, para. 257, referring to *Čelebići* Appeal Judgement, paras. 256 & 289, referring to *Bagilishema*, Appeal Judgement, para. 51, citing *Muesma*; Trial Judgement, para. 185. See also CDF Appeal Judgement, para. 175.

<sup>1743</sup> *Ibid.*, paras. 257 and 289. See also CDF Appeal Judgement, para. 175. AFRC Trial Judgmnet para. 784. *Halilović*, Appeals Judgement, 16 November 2007, para. 59, in which the Appeals Chamber confirmed that "the concept of effective control over a subordinate – in the sense of a material ability to prevent or punish criminal conduct, however, that control is exercised – is the threshold to be reached in establishing a superior subordinate relationship for the purpose of Article 7(3) of the Statue"; See also, Pre-trial brief, para. 161, referring to *Aleksovski* Appeal Judgement, para. 76; *Čelebići* Appeal Judgement, paras 195-196, 240; *Brđanin* Trial Judgement, para. 281. See also, by way of example, the findings of this Chamber as referred to by the Appeals Chamber in the AFRC Appeals Judgement, para. 266, in respect of Kamara.

<sup>1744</sup> TF1-561, TT, 14 May 2008, pp. 9849, 9834-35, 15 May 2008, pp. 9916; TF1-399, TT, 12 March 2008, p. 5871; DCT-179, TT, 1 March 2010, pp. 36363-64. See also Section II C – Maintained and Strengthened AFRC/RUF Alliance & VII.

<sup>1745</sup> TF1-561, TT, 14 May 2008, pp. 9834-35.

<sup>1746</sup> TF1-561, TT, 15 May 2008, pp. 9916, 9918. See Section II B – Strategic Instruction, Direction, Guidance.

<sup>1747</sup> TF1-561, TT, 14 May 2008, p. 9849.

nobody salutes anybody else or takes instruction from anybody but him, Charles Taylor. [...] And if you don't take orders from Charles Taylor and you take orders from somebody else, you will be in serious trouble.”<sup>1748</sup>

643. This picture of dominance and control never changed even in the Accused's later years as President. The evidence demonstrates that the Accused exercised firm control over his cabinet/government. Taylor's subordinates acted as directed by their leader, Taylor; “Lord forbid” if any man did things on his own.<sup>1749</sup> In his testimony, the Accused acknowledged that as President “the buck stopped with me.”<sup>1750</sup>
644. Taylor had the same level of control over the RUF, and later the AFRC/RUF. All instructions came from Taylor.<sup>1751</sup> He exercised authority and control by his reactions of approval or disapproval of the conduct of AFRC/RUF leadership generally. Taylor promoted Bockarie and Issa Sesay<sup>1752</sup> to show approval or appreciation of their performance *vis-à-vis* the activities of the AFRC/RUF within and outside Sierra Leone. Indeed, during Sankoh's confinement in Nigeria, Taylor summoned Bockarie to express his satisfaction with the way Bockarie was commanding the RUF thus far.<sup>1753</sup>
645. Throughout the Indictment period the Accused exhibited the high degree of control he exercised over the RUF, and later the AFRC/RUF and his Liberian subordinates in Sierra Leone, individually or through subordinate commanders and leaders. Taylor issued instructions and direction to the leaders of the RUF, AFRC/RUF and his Liberian subordinates in relation to the conduct of their operations in Sierra Leone, instructions and guidance which they followed and even sought out. This high degree of control also manifested itself in the binding decisions he made in respect of the leaders of the RUF.<sup>1754</sup> For instance, the evidence demonstrates that the AFRC/RUF made an effort to deliver on requests by the Accused even in the most extraneous circumstances.<sup>1755</sup>

<sup>1748</sup> TF1-561, TT, 19 May 2008, p. 10143.

<sup>1749</sup> TF1-399, TT, 14 March 2008, p. 6127. See Section II A – Taylor was Father, Godfather, Chief of RUF, AFRC.

<sup>1750</sup> Accused, TT, 20 July 2009, p. 24760.

<sup>1751</sup> TF1-399, TT, 14 March 2008, p. 6122

<sup>1752</sup> See Section II E – Manpower and VI.

<sup>1753</sup> TF1-567, TT 02 July 2008, p. 12901; See also Section VII.

<sup>1754</sup> See Section II; see AFRC Appeals Judgement, para. 266; *Prosecutor v Strugar*, Appeals Judgement, IT-01-42-A, 17 July 2008, paras. 253 - 254, referring to the *Halilović* Appeal Judgement, paras. 68, 70, 139 but also recalled that the *Blaškić* Appeals Chamber found that “issuing of humanitarian orders does not by itself establish that the Appellant had effective control over the troops that received orders” (*Blaškić* Appeals Judgement, para. 485) and consideration of whether orders were actually followed.

<sup>1755</sup> See for example, in relation to the requested attack on Guinea, TF1-338, TT, 2 September 2008, pp. 15177-79; TF1-276, TT, 23 January 2008, pp. 2050-2055. See Section VII.

Liberian senior commanders who served as conduits in this relationship also knew too well the consequences of not following orders given by their Commander-in Chief, Taylor.<sup>1756</sup>

646. After Bockarie crossed to Liberia at the end of 1999, Bockarie explained that he took all instructions directly from Mr Taylor, his “Chief,” and that it was only Taylor from whom he was taking orders because Sankoh wanted him killed.<sup>1757</sup>

647. [REDACTED]  
[REDACTED]<sup>1758</sup> When Taylor ordered Bockarie to bring the high level prisoners freed from Pademba Road to Buedu, Bockarie issued those instructions to his forces in Freetown.<sup>1759</sup> When the Accused ordered the RUF, AFRC/RUF to provide personnel to fight with his forces in Liberia, those senior leaders always obeyed those orders.<sup>1760</sup> Subordinates of the Accused, Liberian forces and AFRC/RUF worked in coordination pursuant to Taylor’s instruction to execute orders from the Accused to fight against Taylor’s foes in Liberia and Guinea.<sup>1761</sup> When the AFRC/RUF took UN peacekeepers hostage in 2000, the Accused ordered Issa Sesay, the interim leader of the AFRC/RUF, to release the peacekeepers.<sup>1762</sup> Issa Sesay obeyed that order, but indicated that had it not been for the Accused’s order, he would not have released them.<sup>1763</sup> When Taylor ordered Issa Sesay to delay disarming, and to not disarm, Issa Sesay obeyed.<sup>1764</sup>

648. Senior leaders of the RUF, and the AFRC/RUF, sought Taylor’s direction and guidance before they took major decisions, such as travelling to Liberia, often to speak with the Accused.<sup>1765</sup> When tensions or fighting increased in Sierra Leone, these leaders contacted the Accused for the resolution.

<sup>1756</sup> TF1-561, TT, 14 May 2008, p. 9849; DCT-179, TT, 1 March 2010, pp. 36363-64.

<sup>1757</sup> TF1-579, TT, 5 November 2008, p. 19859-60. See also Section II.

<sup>1758</sup> See for example [REDACTED]. See also Sections II & VII.

<sup>1759</sup> TF1-568, TT, 15 September 2008, pp. 16171 & 16179; TF1-360, TT 06 February 2008, p. 3253

<sup>1760</sup> [REDACTED]; TF1-567, TT, 7 July 2008, pp. 13085, 13107; TF1-334, TT, 24 April 2008, pp. 8503-16; TF1-276, TT, 23 January 2008, pp. 2045-47. See also Section II & VII.

<sup>1761</sup> TF1-334, TT, 24 April 2008, pp. 8503-04; TF1-276, TT, 23 January 2008, 2048-50.

<sup>1762</sup> TF1-567, TT, 7 July 2008, pp. 13038-40; TF1-338, TT, 2 September 2008, pp. 15144-45, 15161-62; TF1-276, TT, 23 January 2008, pp. 2029-2031. See also Sections II & VII.

<sup>1763</sup> TF1-276, TT, 23 January 2008, pp. 2029-31. See also Sections II, V & VII.

<sup>1764</sup> TF1-338, TT, 2 September 2008, pp. 15149-50. See also Sections II, V & VII.

<sup>1765</sup> TF1-567, TT, 7 July 2008, pp. 13038-40; [REDACTED] See also Section II F – Communications & VII.

**Superior – Subordinate relationship:** *Other indicia for establishing the existence of Effective Control*

649. The evidence provides other indicia of Taylor's effective control as well. For example, the Accused had first entitlement to the profits of war, such as the resources of Sierra Leone. The Accused had independent access to and control of the means to wage war, including arms and ammunition and communications equipment.<sup>1766</sup>
650. Evidence of the Accused's first entitlement to the profits of war, in this case his receipt of diamonds from the AFRC/RUF, and his provision of arms and ammunitions in return, enabling them, and thereby controlling the means by which they continue to wage war, stood out quite spectacularly throughout this trial.<sup>1767</sup>
651. The totality of this evidence points very strongly and irrefutably to the Accused's authority and control over the AFRC/RUF.

**REQUIREMENT 2: THE ACCUSED KNEW OR HAD REASON TO KNOW THAT THE CRIME WAS ABOUT TO BE OR HAD BEEN COMMITTED**

652. The evidence in the case proves beyond reasonable doubt that the Accused knew or had reason to know that the charged crimes were about to be committed or had been committed, through either actual or constructive knowledge.<sup>1768</sup> The Accused was aware of the crimes being committed in Sierra Leone and that the crimes would continue to be committed.<sup>1769</sup> He had information available to him which put him on notice of these crimes being committed or about to be committed by his subordinates in Sierra Leone, for example through written or oral reports, media reports, radio monitoring.<sup>1770</sup> Even if this information were general in nature, it was sufficient to put the Accused on notice of the 'present and real risk' that crimes under the Statute were committed, or about to be committed."<sup>1771</sup> Such information alerted the Accused and

<sup>1766</sup> AFRC Trial Judgement, para 788;

<sup>1767</sup> See Sections II D – Arms and Ammunition aka Materiel; III A – Taylor & Diamonds: Motive and Contribution.

<sup>1768</sup> AFRC Trial Judgement., para. 792; RUF Appeal Judgement, para. 853; *Blaškić* Appeal Judgement, 29 July 2004, para. 62; *Čelebići* Appeals Judgement, 20 February 2001, para. 241.

<sup>1769</sup> See Section IV.

<sup>1770</sup> *Čelebići* Appeals Judgement, 20 February 2001, para. 238.

<sup>1771</sup> AFRC Trial Judgement, para. 794; RUF Trial Judgement, para. 310. Trial Chamber II stated that "Examples of such information include: that a subordinate has a violent or unstable character and that a subordinate has been drinking prior to being sent on a mission. Furthermore, reports addressed to the superior, the level of training and instructions of subordinate officers are factors to be taken into account when determining imputed knowledge."

put him on notice of the need for investigation.<sup>1772</sup> The Accused's knowledge can also be imputed in that he failed to conduct additional inquiry, in spite of the information available to him.<sup>1773</sup>

653. One of the means by which the Accused had the requisite knowledge was through the established RUF and later AFRC/RUF structures, chains of command, headquarters and geographic areas over which they exercised control,<sup>1774</sup> including effective systems of communication for reporting by subordinates to the high command.<sup>1775</sup> Another means by which the Accused had knowledge was through the wide media reporting of rebel activities in Sierra Leone, the daily briefings to the Accused by his advisors,<sup>1776</sup> and by Taylor's admissions of his familiarity with the media.<sup>1777</sup>
654. Therefore, the Accused knew or had reason to know, as charged, that his Liberian subordinates in Sierra Leone and the RUF, AFRC/RUF were engaged in the charged crimes in Sierra Leone.
655. Stephen Smith, a journalist of international repute who interviewed the Accused in 2000, had no reason to change his impression that the Accused's capacity, and indeed his well formed habit of keeping himself informed about international events by regularly following the international news, in his earlier years, would have changed in his later years.<sup>1778</sup> This assessment reinforces that the Accused had knowledge about crimes committed by his subordinates in the AFRC/RUF in Sierra Leone.
656. Compelling evidence exists showing the Accused's capacity to keep himself informed about international affairs, including events in Sierra Leone, before, during and after the indictment period, to enable a finding that the Accused *knew* that the crimes charged

<sup>1772</sup> AFRC Trial Judgement, para. 799; RUF Trial Judgement, para. 305.

<sup>1773</sup> AFRC Trial Judgement, para. 794; RUF Trial Judgement, para. 310. See also for example, *Strugar* Appeal Judgement, para. 297-298, referring to the approach in *Čelebići*, and noting that the Appeals Chamber in that case explained that "the rationale behind such liability is the "failure to conclude, or conduct additional inquiry, in spite of alarming information constitutes knowledge of subordinate offences" (*Čelebići* Appeal Judgement, para. 532).

<sup>1774</sup> See for example [REDACTED]; TF1-375, TT, 28 August 2008, p. 14826; DCT-025, TT, 17 March 2010, p. 37427.

<sup>1775</sup> TF1-274, TT, 2 December 2008, p. 21449; TF1-568, TT, 8 September 2008, pp. 15720-15722; TF1-516, TT, 8 April 2008, p. 6967; Nothing went on in the command structure of the AFRC/RUF without the knowledge of Sam Bockarie. See also Section II; see AFRC Trial Judgement, para. 793, referring to *Kordić* Trial Judgement, para. 428; *Galić* Trial Judgement, para. 174; *Orić* Trial Judgement, para. 320.

<sup>1776</sup> TF1-561, TT, 15 May 2008, pp. 9962-67; Accused, TT, 25 November 2009, p. 32508; establishing there were internal reports and briefings on the fighting in Sierra Leone, 26 November 2009, pp. 32614-15.

<sup>1777</sup> Accused, TT, 8 September 2009, p. 28265-28267; Also, 3 November 2009, p. 31053; TF1-571, TT, 14 May 2008, pp. 9869-71; Exh. P-33B, p. 00043985; Exh. P31, p. 00026620. See also Section IV, VI, VII and IX.

<sup>1778</sup> Stephen Smith, TT, 23 September 2008, pp. 16966-68.



had been or were about to be committed by his subordinates in Sierra Leone. Further or alternatively, a sufficient basis exists to impute such knowledge to the Accused, (*had reason to know*), on the basis of reasonable awareness stemming from his prior familiarity with the *raison d'être* for the creation, existence, purpose and activities of RUF, and later AFRC/RUF, his admission to being familiar with the media, and having regard to the overall circumstances of his relationship with the ARFC/RUF.

**REQUIREMENT 3: THE ACCUSED FAILED TO TAKE NECESSARY AND REASONABLE MEASURES TO PREVENT THE CRIME OR PUNISH THE PERPETRATORS THEREOF**

657. The Accused failed in both his distinct obligations: : i) to intervene as soon as he became aware of crimes about to be committed, and ii) to take measures to punish after learning about the commission of the crime. However, punishing a crime would only suffice to meet Taylor's obligations if he only became aware of the crime after its commission.<sup>1779</sup> Taylor could not then cure his failure to prevent the crimes by subsequently punishing the subordinate for the commission of the offence.<sup>1780</sup>
658. Given the amount of information available to him regarding the crimes being committed in Sierra Leone, his knowledge of the ongoing pattern of crimes being committed by the RUF, AFRC/RUF, it is clear that Taylor fell afoul of his legal obligation to prevent further crimes from being committed. Assuming arguendo the Accused only learned of some crimes after they had been committed, the evidence also demonstrates that Taylor failed in his legal duty to punish the perpetrators of those crimes.<sup>1781</sup>
659. The Accused had the capacity to take measures to prevent or punish the crimes being perpetrated by his subordinates in Sierra Leone, but did not do so. Although it appears the Accused occasionally issued orders to his Liberian subordinates prohibiting crimes such as looting, in fact, he did not enforce such orders,<sup>1782</sup> nor did he routinely investigate or punish offenders.<sup>1783</sup> The Accused did not prevent or punish crimes because he saw them as a means of furthering his overall objectives and because his focus was always obedience to his orders, not on whether his subordinates were

<sup>1779</sup> AFRC Trial Judgement, para. 797, referring to *Orić* Trial Judgement, para. 326; *Limaj* Trial Judgement, para. 527; *Strugar* Trial Judgement, para. 373 and *Limaj* Trial Judgement, para. 527.

<sup>1780</sup> *Halilović*, Trial Judgement, 16 November 2005, para. 72, *Orić*, Appeal Judgement, 3 July 2008, para. 177.

<sup>1781</sup> *Blaškić*, Trial Judgement, 3 March 2000, para. 336.

<sup>1782</sup> TF1-399, TT, 13 March 2008, pp. 5974-77.

<sup>1783</sup> TF1-399, TT, 13 March 2008, pp. 5974-75.

committing crimes. For example, the NPFL committed crimes against civilians when Taylor was the leader<sup>1784</sup> but Taylor did not punish those crimes. Rather, Taylor punished those who did not obey his orders or who acted outside his orders.<sup>1785</sup> When Prince Johnson executed Special Forces/NPFL members who had committed crimes, Taylor ordered Johnson brought before him for that action. Taylor was less concerned with the crimes his subordinates had committed than with Johnson taking independent action to punish those crimes.<sup>1786</sup> Taylor's NPFL committed crimes in Sierra Leone on such a horrific scale and of such a horrific nature that even Sankoh – who was not at all averse to the use of terror and other crimes against civilians – complained. Taylor's response was that destruction of that type happened in a guerrilla war and said, "You are not eating bread and butter, you are fighting."<sup>1787</sup> He further remarked that "Sankoh will get used to it."<sup>1788</sup> These responses speak volumes about Taylor's attitude vis-à-vis commission of crimes by his subordinates against civilians. This attitude encouraged, rather than hindered, an environment in which impunity flourished among his subordinates.

660. The Accused did not create or sustain an environment of discipline and respect for the law in relation to his Liberian or Sierra Leonean subordinates. For example, by purposely not paying his fighters, he created an environment conducive to such crimes.<sup>1789</sup> The leaders of the RUF, AFRC/RUF, trained or encouraged subordinates in the use of terror as a tool against civilians, following the example of Taylor's NPFL regarding the treatment of civilians. For example, when Bockarie assumed the leadership of the RUF, he did not hold his subordinates accountable for the crimes they committed.<sup>1790</sup> He had no respect for the law or concern for crimes committed against civilians. He committed crimes himself, or through his bodyguards.<sup>1791</sup> SBUs used by Bockarie to guard civilians forced to mine for diamonds killed or beat those civilians if

<sup>1784</sup> TF1-399, TT, 12 March 2008, pp. 5861-62.

<sup>1785</sup> TF1-399, TT, 12 March 2008, pp. 5858 & 5946-47, 13 March 2008, pp. 5974-75.

<sup>1786</sup> Accused, TT, 16 July 2009, pp. 24609-10, 24620; DCT-179, TT, 22 February 2010, pp. 35628-9.

<sup>1787</sup> TF1-561, TT, 14 May 2008, p. 9862.

<sup>1788</sup> TF1-399, TT, 12 March 2008, p. 5869.

<sup>1789</sup> Accused Testimony, TT 01 December 2009, p. 32746.

<sup>1790</sup> TF1-337, TT, 4 March 2008, pp. 5241-42; see also TF1-337, TT, 5 March 2008, pp. 5299-5300, 5308-09, 5359-61; TF1-334, TT, 18 April 2008, p. 8007-08; TF1-275, TT, 21 February 2008, pp. 4514-15; TF1-275, TT, 21 February 2008, pp. 4512-13; TF1-375, TT, 23 June 2008, p. 12514; [REDACTED]

<sup>1791</sup> TF1-337, TT, 04 March 2008, pp. 5242-43.

they were suspected of stealing diamonds.<sup>1792</sup> SBUs were trained to amputate people's arms under orders from AFRC commanders,<sup>1793</sup> and regarding the burning of people in houses, "If you [a fighter] refused to go by the order you faced the consequences from the commander."<sup>1794</sup>

661. Taylor's response to the vicious actions of Bockarie and his subordinates was to praise, not to prevent or punish. [REDACTED]

[REDACTED]<sup>1795</sup> This was after all the notoriety about the orgy of violence that had been perpetrated during the nationwide multi-axis offensive. Taylor's subordinates could only interpret such actions and others such as his refusal to hold Benjamin Yeaten accountable for his many crimes,<sup>1796</sup> as encouragement or at least acceptance of their conduct, which effectively increased the risk of new crimes being committed.<sup>1797</sup>

<sup>1792</sup> DCT-146, TT, 13 April 2010, p. 38773-75.

<sup>1793</sup> TF1-334, TT, 29 April 2008, pp. 8866-67.

<sup>1794</sup> TF1-334, TT, 29 April 2008, p. 8868.

<sup>1795</sup> [REDACTED]. See also Section VI -

<sup>1796</sup> TF1-561, TT, 16 May 2008, p. 10046; See also DCT-224, TT, 3 June 2010, pp. 42089-94 regarding Dokie's killing.

<sup>1797</sup> See also *Srugar* Appeal Judgement, para. 301.

## IX. CRIME BASE EVIDENCE

### IX.A. ASSESSMENT OF THE CRIME BASE EVIDENCE

#### Specificity of the Indictment

662. In the Indictment,<sup>1798</sup> timeframes are pled using the inclusive language “between about...and about”<sup>1799</sup> and locations within a District are also pled using the inclusive language “various locations” and “throughout.”<sup>1800</sup> Accordingly, for each Count, the Chamber should consider for guilt of the Accused all relevant evidence adduced where the evidence falls within the District<sup>1801</sup> and the approximate timeframes specified by the Indictment.<sup>1802</sup>

663. The Indictment also uses inclusive language in Count 6, namely “sexual violence...including,”<sup>1803</sup> indicating that all forms of sexual violence, not just evidence of rape and sexual slavery, constituting “outrages upon personal dignity” should be considered for guilt under Count 6. Similarly, Counts 7 and 8 refer to “physical violence...including.”<sup>1804</sup> Given this inclusive language the Chamber should consider all forms of physical violence constituting “cruel treatment” under Count 7 or “inhumane treatment” under Count 8 for guilt of the Accused under these Counts and

<sup>1798</sup> Considering the superior position of the Accused, the fact that personal commission is not charged, and the widespread nature of the alleged crimes, the Accused was provided adequate notice of the charges by the sufficiently specific language used in the Indictment. As found in the RUF Trial Judgement, para. 427, the more remote the accused from the alleged crimes the more the acts of the physical perpetrator are a matter of evidence and need not be pleaded with a high degree of specificity. See also *Karadžić* Indictment Decision, para. 16. Material facts must be pled in an indictment. Whether a fact is material depends on the nature of the case and the proximity of the accused. When personal commission of a crime is charged, material facts include the location, date, perpetrators, victims, and conduct falling under a specified event. See RUF Trial Judgement, para. 325; AFRC Trial Judgement, para. 29; *Prosecutor v. Naletilić, et al.*, IT-98-34-A, Appeal Judgement, 3 May 2006, para. 24. Further, the scale and nature of crimes creates an exception, even when considering the pleading of personal commission, to the degree of specificity required in relation to the material facts which must be pled in an indictment. See RUF Trial Judgement, para. 329; RUF Appeals Judgement, para. 52; AFRC Trial Judgement, para. 28; AFRC Appeals Judgement, para. 41; CDF Trial Judgement, para. 38.

<sup>1799</sup> Indictment, paras. 6-31.

<sup>1800</sup> Indictment, paras. 7-8, 10-13, 15-17, 19-21, 22, 24-27, 29-31.

<sup>1801</sup> RUF Trial Judgement, para. 421; RUF Appeals Judgement, para. 832. See also *Prosecutor v. Muvunyi*, ICTR-00-55A-A, Appeal Judgement, 29 August 2008, para. 58; *Prosecutor v. Brđanin, et al.*, IT-99-36, Decision on Objections by Radoslav Brđanin to the Form of the Amended Indictment, 23 February 2001, para. 13.

<sup>1802</sup> In *Rutaganda*, the Trial Chamber did not consider the variance between dates spanning the month of April and the indictment-specified “on or about 6 April” material or prejudicial to the Accused. In relying upon these varying dates, the Chamber noted that all the dates were within April, the indictment set out an approximate time frame, time was not a material element, and the indictment did not mislead the Accused as to the number of events that occurred during this approximate timeframe. See *Prosecutor v. Rutaganda*, ICTR-96-3-T, Trial Judgement, 6 December 1999, para. 201; affirmed on appeal, *Prosecutor v. Rutaganda*, ICTR-96-3-A, Appeal Judgement, 26 May 2003, para. 302.

<sup>1803</sup> Indictment, para. 14.

<sup>1804</sup> Indictment, para. 18.

not just that relating to mutilations and/or beatings. This approach is supported by the jurisprudence.<sup>1805</sup>

664. An additional ground in support of the above approach to the evidence which can be taken into consideration for guilt of the Accused under Counts 6 to 8 is that the Accused has been provided with timely, clear, and consistent notice of the material facts underpinning the charges by the Original Indictment, First Amended Indictment, Indictment, Case Summary, Amended Case Summary, Pre-trial Brief, opening statement and/or witness statements.<sup>1806</sup>

665. Such timely, clear and consistent notice<sup>1807</sup> was provided in relation to male sexual violence victims despite the Indictment-specified victim category of “women and girls.”<sup>1808</sup> Therefore, the Chamber should also consider evidence of sexual violence against male victims for guilt under Count 6.<sup>1809</sup>

#### **Locations Identified in the Indictment Where Insufficient Evidence Led**

666. Insufficient evidence has been led in support of the following:<sup>1810</sup>

- i. burning at Goderich or Kent during the Freetown Invasion; and
- ii. physical violence being perpetrated at Tumbo, Benguema or Hastings by the AFRC/RUF during the period specified in the Indictment.

<sup>1805</sup> The Appeals Chamber upheld Trial Chamber I’s finding in the RUF Case that inclusive language was sufficiently specific. It distinguished the RUF accused from those in the AFRC Case where Trial Chamber II declined to consider evidence where the Indictment relied on similarly inclusive language: whereas *only* direct forms of participation were alleged in the AFRC Case, in the RUF Case alleged responsibility rested at least in part on indirect forms of participation including joint criminal enterprise. RUF Appeals Judgement, para. 832. In this case, the Accused is less proximate to the alleged crimes than any of the accused in the AFRC and RUF Cases therefore the inclusive language of the Indictment is sufficiently specific. First, unlike the accused in those cases, personal commission has never been alleged. Second, like the RUF accused, the Accused allegedly participated in a joint criminal enterprise. Finally, the Accused is not alleged to have ever set foot in Sierra Leone during the Indictment Period. Instead, he exercised his superior position of command and control from neighbouring Liberia where he was, for much of the Indictment Period, “the highest military and civilian authority” (see Indictment, paras. 2-3). As regards ICTY jurisprudence, the Accused in this case is further removed from the actual perpetration of the crimes than the defendant in *Karadzic*, also characterized as the “highest civilian and military authority.” In *Karadžić*, the Trial Chamber found that pleading of the physical perpetration of the crimes in “very general terms” was sufficient (see *Prosecutor v. Karadžić*, IT-95-5/18-PT, Third Amended Indictment, paras. 2-4; *Karadžić* Indictment Decision, para. 16).

<sup>1806</sup> See AFRC Trial Judgement, para. 47; RUF Trial Judgement, para. 332; CDF Appeals Judgement, para. 443. A witness statement alone, so long as disclosed in a timely manner, may provide sufficient notice (RUF Trial Judgement, paras. 1307-1308).

<sup>1807</sup> See the Original Indictment, para. 30; First Amended Indictment, p. 4; the Indictment, para. 14; Pre-Trial Brief, paras. 75-76, 96, 99; Amended Case Summary, paras. 22-25.

<sup>1808</sup> Indictment, paras. 14-17.

<sup>1809</sup> See also RUF Trial Judgement, paras. 1307-1308.

<sup>1810</sup> At the Rule 98 stage, a lower standard is applied (see TT. 4 May 2009, p. 24196).

## Operation Names

667. The names of the operations carried out by the Indictment Perpetrators<sup>1811</sup> throughout the conflict often manifested the rebels' intent to target civilians, rather than demarcate any specific timeframe. For example, "Operation No Living Thing" was heard by witnesses as early as February 1998<sup>1812</sup> [REDACTED]  
[REDACTED]<sup>1813</sup> "Operation Pay Yourself," though already an axiom of rebel looting sprees and their *modus operandi* from the start of the conflict, was officially used after the Intervention,<sup>1814</sup> as was "Operation Spare No Soul."<sup>1815</sup> "Operation Free the Leader/Free Foday Sankoh" evidences the intent of the AFRC/RUF as they prepared to retake Freetown, where Foday Sankoh was imprisoned.<sup>1816</sup> Further, Sam Bockarie's radio message combined the language and goals of Operations No Living Thing and Free the Leader<sup>1817</sup> when he threatened to "kill every living thing" should Sankoh be harmed in captivity,<sup>1818</sup> thus clearly demarcating the criminal goal.

## **IX.B. GENERAL REQUIREMENTS FOR ARTICLES 2, 3 & 4 OF THE STATUTE**

### Crimes Against Humanity pursuant to Article 2 of the Statute

#### **LAW**

668. The contextual elements of crimes against humanity pursuant to Article 2 of the Statute are as follows:

- There must be an attack;
- The attack must be widespread or systematic;
- The attack must be directed against any civilian population;
- The acts (or omissions) of the accused/perpetrator must be part of the attack;

<sup>1811</sup> In this Section of the Brief dealing with the crime base evidence, the term "Indictment Perpetrators" is a defined term. See the Glossary in the Annex to this Brief.

<sup>1812</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19463, 19472-75, 19482; TF1-076, TT, 13 October 2008, pp. 18224-28 & Exh. P-195 (AFRC Transcript of TF1-076, 25 June 2005), pp. 18616-19; Exh. P-78, p. 11, para. 4; Exh. D-344; Exh. P-81; TF1-065, TT, 24 September 2008, pp. 17113-27; TF1-459, TT, 25 September 2008, pp. 17342-43.

<sup>1813</sup> [REDACTED]  
<sup>1814</sup> TF1-065, TT, 24 September 2008, p. 17062.

<sup>1815</sup> TF1-045, TT, 18 November 2008, p. 20514. Operation No Living Thing, Operation Free Foday Sankoh and Operation Spare No Soul, all ordered by Sam Bockarie, were the same.

<sup>1816</sup> TF1-045, TT, 18 November 2008, p. 20513; TF1-571, TT, 13 May 2008, p. 9734; TF1-367, TT, 1 September 2008, p. 15043.

<sup>1817</sup> TF1-045, TT, 18 November 2008, p. 20514.

<sup>1818</sup> TF1-334, TT, 21 April 2008, pp. 8173-74.

- The accused/perpetrator must know or have had reason to know that his or her acts (or omissions) constitute part of a widespread or systematic attack directed against a civilian population.<sup>1819</sup>

669. In relation to the above elements the following footnoted sources of law are relied upon.<sup>1820</sup> As regards the requirement that “the attack must be directed against any civilian population” it is to be recalled that there is an absolute prohibition against targeting civilians in customary international law.<sup>1821</sup> The civilian population includes persons who are not members of the armed forces or otherwise recognised as combatants.<sup>1822</sup> Persons *hors de combat* do not *prima facie* fall within this definition.<sup>1823</sup> However, where a person *hors de combat* is the victim of an act which objectively forms part of a broader attack directed against a civilian population, this act can amount to a crime against humanity, provided that the remaining general requirements of Article 2 are satisfied in respect of the particular incident.<sup>1824</sup>

<sup>1819</sup> CDF Appeal Judgement, para. 235. Note that: (i) “(or omissions)” is added to the contextual elements above – it is established law that an accused or perpetrator can be held liable for both his/her acts and omissions, and (ii) that in relation to the use of the term “accused” Trial Chamber I, in its discussion of the general requirements/contextual elements of offences, at para. 74 of the RUF Trial Judgement, notes that: “the term “Accused” that is used in the enumeration of the general requirements for each category of crimes or any specific crimes under the Statute was chosen for the purposes of convenience and should be understood in a broad sense. The general requirements and the elements of the specific offences, including the appropriate mental elements therein apply *mutatis mutandis* to the direct perpetrator of the crime as well as those whose criminal responsibility may fall under Article 6(1) and 6(3) of the Statute.”

<sup>1820</sup> In relation to the requirement that “there must be an attack” the following sources of law are relied upon: AFRC Trial Judgement, para. 214; and CDF Trial Judgement, para. 111. In relation to the requirement that “the attack must be either widespread or systematic” the Prosecution relies upon the following footnoted sources of law: AFRC Trial Judgement, para. 215; RUF Trial Judgement, paras. 78 and 89. As regards the requirement that “the attack must be directed against any civilian population” the following sources of law are relied upon: CDF Appeal Judgement, paras. 247-248 and 257 259-261; RUF Trial Judgement, paras. 80, 83, 85-88; AFRC Trial Judgement, paras. 216-217; CDF Trial Judgement, paras. 114 and 137; *Mrksić* Appeal Judgement, para. 3; *Milošević, Dragomir* Appeal Judgement, para. 67.

<sup>1821</sup> CDF Appeal Judgement, para. 248; AFRC Trial Judgement, para. 216; RUF Trial Judgement, para. 81. See in particular *Galić* Appeals Judgement, paras. 190-191 (in relation to Article 51(2) of API); cited with approval in the *Milošević, Dragomir* Appeal Judgement, para. 53.

<sup>1822</sup> *Martić* Appeal Judgement, para. 297.

<sup>1823</sup> *Martić* Appeal Judgement, paras. 291-302, esp. at 302, where the Appeals Chamber specifically considered this issue. See further, para. 307, where the Appeals Chamber elucidates upon the distinction between *hors de combat* as a category of persons who may not be the object of the attack according to the chapeau of Article 5, and a person *hors de combat* who may be an individual victim of a crime against humanity. The Appeals Chamber elaborates that “there is nothing in the text of Article 5 of the Statute, or previous authorities of the Appeals Chamber that requires that individual victims of crimes against humanity be civilians.”

<sup>1824</sup> *Martić* Appeal Judgement, paras. 303 -314; RUF Trial Judgement, para. 82, footnotes omitted, but referring to *Martić* Appeal Judgement, para. 302. *Martić* Appeal Judgement, para. 307, also paras. 303-306. In *Martić* the Appeals Chamber entered convictions for crimes committed against persons *hors de combat*, considering that they were victims of a widespread and systematic attack against the civilian population, and that all elements of the offences were met (see *Martić* Appeal Judgement, paras. 318-319, 346, 355). See also confirmation of the same in *Mrksić* Appeal Judgement, paras. 29 and 32. Further of note is that in the RUF Appeal Judgement, para. 1069 the Appeals Chamber did not interfere with the conviction of Gbao for the unlawful killing of an *hors de combat* soldier as a crime against humanity.

## EVIDENCE

### (i) There Was an Attack:

670. Mistreatment of civilians – an attack – was a permanent feature of the operations conducted by the Indictment Perpetrators before and during the Indictment Period in Sierra Leone.
671. The Indictment Crimes are a minimal representation of the consistent and continuous harassment, intimidation and mistreatment of civilians between March 1991 and January 2002.<sup>1825</sup> Indeed, this Chamber judicially noticed that “Sierra Leone’s decade-long conflict was marked by an extraordinary level of brutal human rights abuses, including abductions, beatings, killings, sexual assault of women and men, being ‘captured’ for less than 24 hours, torture, forced labour, serious injuries and amputations.”<sup>1826</sup> The Sierra Leone Truth and Reconciliation Commission found that the RUF was responsible for 60% of documented violations, while the RUF and AFRC combined were responsible for 69% of all violations.<sup>1827</sup>
672. In 1997, after accepting the AFRC invitation to join the junta government, the RUF apologized for six years of killing, “undo[ing] female femininity,” “slaughter[ing] mothers and butcher[ing] fathers.”<sup>1828</sup> Two years later, another apology would follow for the deplorable actions of the “rebels” from 1997 through 1999.<sup>1829</sup> Neither apology, however, marked a change of policy or strategy and infliction of violence continued to characterize AFRC/RUF operations.<sup>1830</sup> Therefore, both before and during the Indictment Period, there was consistent mistreatment of the civilian population – an on-going attack – as required under the first prong of the Article 2 contextual elements.

### (ii) The Attack was Widespread *and* Systematic:

673. The attack was purposely waged on a level so widespread and systematic that the Indictment Perpetrators succeeded in attracting the international attention they craved.

<sup>1825</sup> The Sierra Leone Truth and Reconciliation Commission attributed documented cases of sexual slavery, rape, looting, killing, forced recruitment, forced displacement, abduction, forced labor, assault, destruction of property, arbitrary detention, amputation, torture, extortion, and sexual abuse to the RUF every year from 1991-2000 and the AFRC every year from 1997-2000. Exh. P-296, pp. 21853-4.

<sup>1826</sup> Judicially Noticed Fact A1.

<sup>1827</sup> Exh. P-296, p. 28151. See also Exh. P-305, p. 1; Exh. P-73, p. 11.

<sup>1828</sup> Exh. P-57, p. 1.

<sup>1829</sup> Exh. P-94, p. 1.

<sup>1830</sup> Exh. P-324, paras. 6 & 7.



International organizations called for the protection of civilians.<sup>1831</sup> The UN Security Council declared in 1997 that the “situation in Sierra Leone constitutes a threat to international peace and security in the region”<sup>1832</sup> and two years later was still demanding that these human rights abuses “cease immediately.”<sup>1833</sup> This mistreatment of civilians, however, did not, and would not, cease. It was a common, well-organized, and permanent feature of the Indictment Perpetrators’ operations, sanctioned at the highest levels. Such organization and official endorsement ensured that tens of thousands of civilians in locations across the country were victims of these policies and practices. Therefore, although the Prosecution need only prove beyond a reasonable doubt that an attack was either widespread *or* systematic,<sup>1834</sup> in the instant case, the attack was both widespread *and* systematic.

#### The Attack was Widespread

674. The Indictment Perpetrators carried out a widespread attack targeting all thirteen districts of Sierra Leone, spanning a decade-long conflict, and resulting in a minimum of tens of thousands of victims.

675. The number of victims is unknown, yet estimates are in the tens of thousands.<sup>1835</sup> During the Freetown Invasion alone, 200,000 civilians were displaced,<sup>1836</sup> up to 5,000 civilians were killed,<sup>1837</sup> hundreds had limbs amputated,<sup>1838</sup> thousands were abducted,<sup>1839</sup> thousands were subject to sexual violence,<sup>1840</sup> many were used by rebels as human shields,<sup>1841</sup> “significant numbers” of combatants were children,<sup>1842</sup> and entire neighbourhoods were burnt to the ground.<sup>1843</sup> This “most intensive and concentrated

<sup>1831</sup> Judicially Noticed Fact AF: “In its press release, *New Testimony of Rape Committed by Sierra Leone Rebels – RUF fighters rape women and children in Makeni and other towns*, dated 5 June 2000, Human Rights Watch: called upon the members of the U.N. Security Council to provide UNAMSIL with the mandate and the means to protect civilians in Sierra Leone from atrocities.”

<sup>1832</sup> Exh. P-69, p. 2.

<sup>1833</sup> Exh. P-324, para. 6.

<sup>1834</sup> RUF Trial Judgement, para. 78; AFRC Trial Judgement, para. 215.

<sup>1835</sup> e.g. Exh. P-295, p. 21851; Exh. P-73, pp. 2 & 9.

<sup>1836</sup> Exh. P-310, para. 31. See also, Exh. P-354 B, p. 23623.

<sup>1837</sup> [REDACTED] See also Exh. P-310, para. 21; Exh. P-354B, p. 1, p. 23623; Exh. P-328, p. 22999.

<sup>1838</sup> Exh. P-310, para. 23.

<sup>1839</sup> Exh. P-310, para. 26.

<sup>1840</sup> Exh. P-330, p. 23142. See also Exh. P-310, para. 24.

<sup>1841</sup> Exh. P-310, para. 21.

<sup>1842</sup> Exh. P-310, para. 25. See also, Exh. P-330, p. 23142; [REDACTED].

<sup>1843</sup> Exh. P-310, para. 27; Exh. P-328, p. 22999.

period of human rights violations,”<sup>1844</sup> however, did not begin with the Freetown Invasion, rather the stage had been set the previous year. Beginning in the spring of 1998, hospitals reported “many hundreds” of civilians with amputated limbs and ears, lacerations and gunshot wounds.<sup>1845</sup> Meanwhile, several thousand civilians were feared dead<sup>1846</sup> and 237,000 refugees fled into Liberia and Guinea.<sup>1847</sup> In one village alone, more than 200 people were killed.<sup>1848</sup> Connaught Hospital<sup>1849</sup> admitted 224 war-wounded civilians over the course of six weeks in 1998 – 25% of these patients were amputees and 51% had deep lacerations.<sup>1850</sup> Other hospitals reported an additional 500 war-injured patients<sup>1851</sup> and there were “numerous” reports of rape.<sup>1852</sup> These reports, however, were not indicative of the true number of victims: for every person who sought medical attention at the time, an estimated five others were dead or unaccounted for.<sup>1853</sup>

676. The years 1998 and 1999, though, were only the peak of an on-going ten year attack upon the civilian population in Sierra Leone resulting in 28,303 *documented* violations attributable to the RUF and AFRC.<sup>1854</sup> Other estimates suggest that a minimum of 20,000 civilians were abducted,<sup>1855</sup> as many as 257,000 Sierra Leonean women and girls were subjected to sexual violence,<sup>1856</sup> and approximately 27,500 child soldiers were utilized by the RUF and AFRC.<sup>1857</sup> In one survey, 94 percent of households reported human rights abuses.<sup>1858</sup> These figures, however, are all minimal estimates: victim surveys suffered from limited access to remote populations, deliberate non-disclosure, lack of resources, lack of accessible health care, fear of retribution, social stigma, and lack of legal protection.<sup>1859</sup> Moreover, abuses by the Indictment Perpetrators were so large, massive, and frequent that precise records were

<sup>1844</sup> Exh. P-328, p. 22999.

<sup>1845</sup> Exh. P-81, p. 1.

<sup>1846</sup> Exh. P-78, p. 10; Exh. P-81, p. 1.

<sup>1847</sup> Exh. P-130, para. 46.

<sup>1848</sup> Exh. P-80, p. 8, para. 35; Exh. P-81, p. 1.

<sup>1849</sup> Exh. P-332, p. 23204.

<sup>1850</sup> Exh. P-130, para. 35; [REDACTED].

<sup>1851</sup> Exh. P-130, para. 35.

<sup>1852</sup> Exh. P-130, para. 36.

<sup>1853</sup> Exh. P-130, para. 35; [REDACTED]; Exh. P-80, p. 8; P-366 p. 22801.

<sup>1854</sup> Exh. P-296, pp. 21856-7.

<sup>1855</sup> [REDACTED].

<sup>1856</sup> Exh. P-330, pp. 23140-1.

<sup>1857</sup> Exh. P-336, p. 23484. See also, Exh. P-81, p. 3; Exh. P-334, p. 23342; Exh. P-366, p. 22804.

<sup>1858</sup> Exh. P-333, p. 23283.

<sup>1859</sup> e.g. Exh. P-73, p. 10 & pp. 18-19; [REDACTED]; Exh. P-334, p. 23342; Exh. P-366, p. 22798.

impossible.<sup>1860</sup> For instance, at various points during the conflict, it was noted that a *large number* of mutilated victims had “RUF” engraved across their chests;<sup>1861</sup> there was *massive* looting of property, murder and rape;<sup>1862</sup> and there were *frequent* acts of sexual violence and other human rights abuses.<sup>1863</sup> Thus, the number of victims is at best uncertain, certainly undercounted and likely higher than estimates.

677. In addition to the extraordinary number of victims, the decade long conflict enveloped Sierra Leone and was felt across the country in multiple locations.<sup>1864</sup> Those districts and locations specified in the Indictment are a mere sampling of those targeted, often devastated, by the Indictment Perpetrators’ attack between 30 November 1996 and January 2002.<sup>1865</sup> In fact, significant numbers of violations against civilians by Indictment perpetrators were documented for all 13 districts.<sup>1866</sup> Moreover, towns and villages attacked spanned these districts border to border. RUF and AFRC/RUF attacks also plagued border towns in Guinea<sup>1867</sup> and hundreds of thousands of Sierra Leonean civilians sought refuge in neighbouring countries.<sup>1868</sup> Therefore, the geographical scale and impact of the attack was not only nation-wide, but also sub-regional.
678. Accordingly, considering that a minimum of tens of thousands of victims throughout the country were targeted, the attack waged by the Indictment Perpetrators between at least 30 November 1996 and January 2002 was widespread in both number of victims and geographical scale.

<sup>1860</sup> Exh. P-310, p. 21598. See also Exh. P-313, p. 21633.

<sup>1861</sup> Exh. P-313, p. 21633.

<sup>1862</sup> Exh. D-135, p. 2.

<sup>1863</sup> Exh. P-73, p. 20.

<sup>1864</sup> Exh. P-130, para. 37; Exh. P-330, p. 23141; Exh. P-78, p. 8.

<sup>1865</sup> Indictment, paras. 7-8, 10-13, 15-17, 19-21, 24-27, & 29-32 (6 of 13 districts are mentioned in the Indictment: Kono (Koidu, Tombodu or Tumbodu, Sewafe or Njaima Sewafe, Wendedu, Bumpe, Koidu Geiya or Koidu Gieya, Koidu Buma, Yengema, Paema or Peyima, Bomboa Fuidu, Nimikoro or Njaima Nimikoro, Mortema, Wondedu, and AFRC/RUF Camps (Superman Ground, Guinea Highway and PC Ground)); Freetown (Kissy, eastern Freetown, Fourah Bay, Upgun, State House, Calaba Town, Kingtom, Pademba Road, Allen Town and Tower Hill) and Western Area (Hastings, Goderich, Kent, Grafton, Wellington, Tumbo, Waterloo, and Benguema); Kailahun (Kailahun Town); Kenema (Tongo Fields); Bombali (Makeni); and Port Loko (Masiaka)).

<sup>1866</sup> Exh. P-296, pp. 21856-21857.

<sup>1867</sup> Exh. P-32, p. 25; Exh. P-18, p. 18.

<sup>1868</sup> Exh. P-310, para. 31; Exh. P-73, p. 4.

### The Attack was Systematic

679. In addition to being widespread, the attack was also systematic with a *modus operandi* defined by official operations and policies, as well as patterns in relation to hostage-taking, terror, forced labour, looting, abductions, sexual slavery, forced training and other mistreatment.
680. Use of abducted civilians as forced labourers, forced recruits, sex slaves and/or human shields was a long-standing practice of the Indictment Perpetrators.<sup>1869</sup> After a village was attacked, it was a “consistent pattern” to force civilians to serve the Indictment Perpetrators.<sup>1870</sup> Combatants would also reward themselves “by looting and raping women and girls, many of whom they later abducted.”<sup>1871</sup> The Indictment Perpetrators consistently relied on forced labourers as cooks, porters, nurses, food producers, messengers, spies, communications technicians, and miners.<sup>1872</sup> Both children and adults were also forcefully conscripted and trained after abduction.<sup>1873</sup> Moreover, ‘wives’ not only performed forced labour, but also engaged in forced sexual relations and bore children - this was a “common practice” among the rebel groups in Sierra Leone.<sup>1874</sup> Those civilians unable or unwilling to adequately serve the rebels in their designated role as wife, fighter, labourer or otherwise were killed or mutilated.<sup>1875</sup>
681. While enslaved civilians provided manpower and support, others were used as an outlet for misplaced vengeance.<sup>1876</sup> These campaigns followed a familiar pattern: arrests of multiple victims who were often prominent community members, sham investigations and then public executions.<sup>1877</sup> Church workers, journalists, students, tribal leaders and any number of other protected persons were frequently targeted as suspected members of the opposition.<sup>1878</sup> Moreover, throughout the war, civilians were abused after being falsely accused of being Kamajors,<sup>1879</sup> or collaborating with ECOMOG and Kabbah.<sup>1880</sup>

<sup>1869</sup> Exh. P-366, p. 22798; Exh. P-73, p. 14; Exh. P-313, p. 21633; Exh. P-328, p. 23001; Exh. P-330, p. 23157; Exh. P-310, para. 24.

<sup>1870</sup> Exh. P-313, p. 21633.

<sup>1871</sup> Exh. P-330, p. 23141.

<sup>1872</sup> Exh. P-336, p. 23484.

<sup>1873</sup> Exh. P-81, p. 3; Exh. P-334, p. 23342.

<sup>1874</sup> Exh. P-73, p. 8; Exh. P-336, p. 23484; Exh. P-328, p. 23000; TF1-114, TT, 15 January 2008, p. 1245; use of “wives” was widespread in Freetown, Masiaka, Makeni and Kono.

<sup>1875</sup> Exh. P-366, p. 22798; Exh. P-328, p. 23000.

<sup>1876</sup> Exh. P-313, p. 21633, para. 29; Exh. P-78, p. 8.

<sup>1877</sup> Exh. P-366, p. 3, p. 22799; Exh. P-78, p. 11.

<sup>1878</sup> Exh. P-78, p. 8; Exh. P-366, p. 22798; Exh. P-310, p. 21599; Exh. P-80, p. 8; Agreed Fact, para. 36 (“In May 2000, RUF abducted UNAMSIL peacekeepers in Sierra Leone”).

<sup>1879</sup> e.g. [REDACTED]; Exh. P-366, p. 22799.

After Sankoh's death sentence, revenge attacks resulted in killings, decapitations and amputations.<sup>1881</sup>

682. Acts of terror against civilians were also used to convey gruesome political messages on behalf of the rebels. Often, the perpetrators told amputees to ask ECOMOG or Kabbah for a new arm. Some who had one or two ears cut off said "that attackers told them that without their ears, they should no longer listen to ECOMOG and the government."<sup>1882</sup> The AFRC/RUF indicated to the world following the Intervention that the junta problem was not solved with these amputations, lacerations and carvings.<sup>1883</sup> Sexual violence victims were tasked with delivering similar messages – their complaints were to be directed to Kabbah and/or ECOMOG.<sup>1884</sup> Although indiscriminate and arbitrary, the manner in which civilians were chosen as targets, contributing to the overall terror and fear, was characterized by "an almost orderly aura of premeditation and planning."<sup>1885</sup>
683. Furthermore, the mistreatment and abuse of the civilian population was endorsed, ordered, encouraged and even committed by those at the highest levels. For example, Sam Bockarie himself was responsible for killings in Kenema<sup>1886</sup> [REDACTED]  
[REDACTED]<sup>1887</sup> Many commanders also personally utilized child soldiers and bush wives.<sup>1888</sup> Moreover, "the frequency of sexual violence and other human rights abuses, especially those committed by the RUF" indicated that commanders were likely to have been aware of the crimes perpetrated by their forces,<sup>1889</sup> but nothing was done to end these long-standing practices and patterns.<sup>1890</sup> In addition to endorsing these crimes by commission and acquiescence, top commanders ordered official operations resulting in systematic and deliberate campaigns of killing, rape, burning, mutilation and looting. These included operations No Living Thing,<sup>1891</sup> Pay Yourself,<sup>1892</sup> and Free Today Sankoh.<sup>1893</sup>

<sup>1880</sup> e.g. Exh. P-78, p. 8; [REDACTED].

<sup>1881</sup> Exh. P-78, p. 14.

<sup>1882</sup> Exh. P-332, p. 23207; Exh. P-78, p. 12.

<sup>1883</sup> Ellis, TT, 16 January 2008, p. 1468. Also see Exh. P-313, p. 21633.

<sup>1884</sup> Exh. P-73, pp. 7 & 12.

<sup>1885</sup> Exh. P-328, p. 23000. See also Exh. P-73, p. 14.

<sup>1886</sup> Exh. P-366, p. 22799.

<sup>1887</sup> [REDACTED].

<sup>1888</sup> Exh. P-73, p. 8; Exh. P-336, p. 23486.

<sup>1889</sup> Exh. P-73, p. 20.

<sup>1890</sup> e.g. Exh. P-328, p. 23000.

<sup>1891</sup> Exh. P-81, p. 1; Exh. P-78, p. 11.

684. Other operations were not given official titles; rather orders came down merely to make an area “fearful.”<sup>1894</sup> Thereafter, campaigns of burning and atrocities directed against civilians would follow. For instance, Bockarie ordered AFRC/RUF fighters, reinforced by Liberians under Abu Keita, to kill civilians and burn villages in an operation aimed at recapturing Kenema.<sup>1895</sup> This “scorched earth policy” was pursued throughout Sierra Leone<sup>1896</sup> and was such a common feature of campaigns that it could not have been accidental.<sup>1897</sup>
685. Overall, “ill-treatment, torture and extra-judicial executions were systematic ... Soldiers and RUF members operated with impunity and created a climate of fear both in Freetown and throughout the country.”<sup>1898</sup> Throughout the conflict, official operations aimed to make whole districts “fearful;” achieve political goals; send brutal messages to ECOMOG, Kabbah and the international community; and punish civilians for perceived treachery. The killings, amputations, abductions, rapes, mutilations, forced labour, forced training, forced recruitment, terror, looting, destruction of property, and use of child soldiers created a pattern of civilian mistreatment.<sup>1899</sup> Indeed, this pattern can be traced to the NPFL<sup>1900</sup> – the RUF was following in the footsteps of “big brother.”<sup>1901</sup> Consequently, it is improbable, if not impossible, that this mistreatment of the civilian population was merely accidental or coincidental. Therefore, the structure, involvement of the highest officers, official and unofficial plans and policies, as well as pattern of civilian mistreatment indicate a systematic attack, the second alternative under the second prong of the Article 2 contextual elements.

<sup>1892</sup> e.g. TF1-561, TT, 8 April 2008, pp. 6852-3; Exh. P-303, p. 21422.

<sup>1893</sup> e.g. TF1-532, TT, 11 March 2008, p. 5796; TF1-045, TT, 18 November 2008, 20513; Exh. P-307, p. 21461.

<sup>1894</sup> e.g. TF1-334, TT, 23 April 2008, p. 8416; TF1-568, TT, 15 September 2008, p. 16171.

<sup>1895</sup> TF1-045, TT, 13 November 2008, pp. 20217-24.

<sup>1896</sup> Exh. P-307, p. 21461. See also Exh. P-80, p. 8; Exh. P-354 B, p. 23624; Exh. P-78, p. 11.

<sup>1897</sup> Exh. P-310, para. 27; Exh. P-366, p. 22801; [REDACTED].

<sup>1898</sup> Exh. P-78, p. 8.

<sup>1899</sup> Exh. P-307, p. 21461.

<sup>1900</sup> [REDACTED]

[REDACTED]; hostage-taking (Dr. Stephen Ellis, TT, 17 January 2008, pp. 1494-7; Exh. P-31, p. 16); [REDACTED]

[REDACTED]; forced labour (Exh. P-31, p. 16); abductions and revenge killings (Exh. P-127, pp. 1-2; [REDACTED]); child soldiers (Exh. P-31, p. 15); and terror campaigns of burning, raping, and looting (Exh. P-126, pp. 1-2).

<sup>1901</sup> [REDACTED]; TF1-548, TT, 11 February 2008, p. 3498; TF1-532, TT, 10 March 2008, p. 5682.

### (iii) The Attack Was Directed Against a Civilian Population

686. From the first incursion into Sierra Leone in 1991 through the end of disarmament in 2002, the attack by the Indictment Perpetrators was directed against the civilian population. Civilians were targeted as scapegoats and in turn, became the object of revenge; a means of support; a supply source; a work force; a recruitment pool; and a medium for violent and frightful expression to ECOMOG, other civilians, the Sierra Leone Government and the international community.
687. Civilian mistreatment by the Indictment Perpetrators was not collateral.<sup>1902</sup> Tens of thousands of victims of crimes in Sierra Leone were protected persons not taking active part in hostilities.<sup>1903</sup> After one attack, a witness saw no civilians, just civilian corpses.<sup>1904</sup> Campaigns were aimed at terrorizing, punishing and deterring *civilians* from supporting the democratically elected government of President Kabbah and to ultimately control the captured areas and suppress its population.<sup>1905</sup> Other civilians were targeted for military purposes and forced labour.<sup>1906</sup> Those unwilling or unable to cooperate with, or provide for, the rebels had “ears, noses, hands, arms and legs” amputated.<sup>1907</sup> Civilians were also an outlet for revenge and a medium for expression.<sup>1908</sup> The Indictment Perpetrators also used methods and tactics which belied their objective. For example, ECOMOG disguises and misinformation as to those areas under ECOMOG control were used in order to lure civilians to locations where they would thereafter be subject to any number of abuses at the hands of the Indictment Perpetrators.<sup>1909</sup>
688. Overall, in order to terrorize and subdue the civilian population, civilians themselves were systematically killed, mutilated or otherwise abused. They were the target of the Indictment Perpetrators’ attack; therefore, the widespread and systematic attack was directed against the civilian population of Sierra Leone satisfying the third contextual element under Article 2.

<sup>1902</sup> e.g. Exh. P-328, p. 22999-23000.

<sup>1903</sup> Exh. P-296, pp. 21856-7.

<sup>1904</sup> TF1-060, TT. 29 September 2008, pp. 17529-31.

<sup>1905</sup> Exh. P-78, p. 8; Exh. P-307, p. 21461.

<sup>1906</sup> Exh. P-324, para. 6; Exh. P-366, p. 22802.

<sup>1907</sup> Exh. P-366, p. 22798; Exh. P-328, p. 23000.

<sup>1908</sup> Exh. P-313, p. 21633, para. 29; Exh. P-78, p. 8.

<sup>1909</sup> Exh. P-332, p. 23206.

**(iv) The Acts of the Accused Were Part of the Attack:**

689. The Prosecution has also established beyond a reasonable doubt that the necessary nexus between the acts of the Accused and the attack existed. The Accused was orchestrating the war in Sierra Leone through his control of the Indictment Perpetrators.<sup>1910</sup> Considering his control,<sup>1911</sup> his involvement in the alleged crimes,<sup>1912</sup> and his participation in a joint criminal enterprise which had the ultimate objective of gaining control of Sierra Leone,<sup>1913</sup> the Accused's acts, as required under the fourth prong of the Article 2 contextual elements, clearly formed part of the widespread and systematic attack upon the civilian population by the Indictment Perpetrators.

**(v) The Accused Knew and Had Reason to Know that His Acts Constituted Part of the Widespread and Systematic Attack Directed Against the Civilian Population:**

690. The Accused not only understood the "greater dimension of criminal conduct" as he orchestrated the war from Liberia, but was also aware that a widespread or systematic attack on the civilian population was taking place and that his acts were part of this attack.<sup>1914</sup> He developed with other senior officials the purpose and goal behind the attack; the goal was also his personal motive.<sup>1915</sup> The Accused therefore both knew and had reason to know that his acts constituted part of the widespread and systematic attack directed against the civilian population – the last contextual element necessarily proven for crimes charged under Article 2.

**Conclusion**

691. From at least 30 November 1996 to 18 January 2002, the Accused knew and had reason to know that his acts formed part of a widespread and systematic attack directed against the civilian population by the Indictment Perpetrators in Sierra Leone. Accordingly, the Prosecution has proven beyond a reasonable doubt the contextual elements for those crimes charge under Article 2 of the Statute.

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<sup>1910</sup> See the section addressing Taylor's Responsibility for the Crimes in Sierra Leone and the sections addressing the modes of liability.

<sup>1911</sup> *Ibid.*

<sup>1912</sup> See the section addressing Taylor's Responsibility for the Crimes in Sierra Leone .

<sup>1913</sup> See the section addressing Taylor's Responsibility for the Crimes in Sierra Leone and the section addressing Joint Criminal Enterprise.

<sup>1914</sup> See the section on Taylor's *Mens Rea*.

<sup>1915</sup> See the section addressing Joint Criminal Enterprise.



### Violations of Common Article 3 and APII, pursuant to Article 3 of the Statute

#### LAW:

692. The contextual elements of violations of Common Article 3 and APII pursuant to Article 3 of the Statute are as follows:

- i. An armed conflict existed at the time of the alleged violation of Common Article 3 or APII;
- ii. there existed a nexus between the alleged violation and the armed conflict;
- iii. The victim was a person not taking direct part in the hostilities at the time of the alleged violation; and
- iv. The perpetrator knew or had reason to know that the victim was not taking a direct part in the hostilities at the time of the act or omission.<sup>1916</sup>

693. It is an agreed fact in the case that an armed conflict existed in Sierra Leone from March 1991 until about 18 January 2002.<sup>1917</sup> Therefore, the law on this element shall not be addressed, save to say that it is immaterial whether the conflict is internal or international in nature.<sup>1918</sup> In relation to the remaining elements the following footnoted sources of law are relied upon.<sup>1919</sup>

<sup>1916</sup> RUF Trial Judgement, para. 93; CDF Trial Judgement, para. 122. Also see AFRC Trial Judgement, paras. 242-248 (finding that only elements (i)-(iii) above need be proven for crimes charged under Article 3 of the Statute). Additionally, although Trial Chamber I laid out additional elements to be proven for those crimes that exist *only* under APII (see RUF Trial Judgement, para. 97), none of the alleged crimes exist solely under APII. Moreover, the Appeals Chamber of the Special Court previously determined in relation to the general requirements of Article 3 of the Statute that the nature of an armed conflict is irrelevant and the court need only be satisfied that an armed conflict existed and that the alleged violations were related to the armed conflict. See *Prosecutor v. Fofana*, SCSL-04-14-PT-101, Decision on the Preliminary Motion on Lack of Jurisdiction *Materiae: Nature of the Armed Conflict*, 25 May 2004, paras. 20-27.

<sup>1917</sup> Judicially Noticed Fact C.

<sup>1918</sup> AFRC Trial Judgement, paras. 243, 246-247; RUF Trial Judgement, paras. 94, 101; CDF Trial Judgement, paras. 123, 129-130; *Prosecutor v. Fofana*, SCSL-04-14-PT-101, Decision on the Preliminary Motion on Lack of Jurisdiction *Materiae: Nature of the Armed Conflict*, 25 May 2004, paras. 20-27.

<sup>1919</sup> In relation to the requirement that "there must be a nexus between the alleged violation and the armed conflict" the Prosecution relies upon the following sources of law: AFRC Trial Judgement, paras. 246-247; CDF Trial Judgement, paras. 129-130; RUF Trial Judgement, paras. 100-101; *Kunarac* Appeal Judgement 12 June 2002, para. 58-59. In relation to the requirement that "the victim was a person not taking direct part in the hostilities at the time of the alleged violation" the Prosecution relies upon the following: AFRC Trial Judgement, para. 248; CDF Trial Judgement, paras. 131-135; RUF Trial Judgement, paras. 102 and 104; *Boškoski* Appeal Judgement 19 May 2010, para. 190. For element (iv) the Prosecution must show that the perpetrator of the crime knew or should have been aware that the victim was taking no active part in the hostilities when the crime was committed (RUF Trial Judgement, para. 105; *Boškoski* Appeal Judgement, para. 66).

**EVIDENCE:****(i) An Armed Conflict Existed at the Time of the Alleged Violations:**

694. As noted above, this Chamber has judicially noticed that an armed conflict existed.<sup>1920</sup> Additionally, prior to commencement of the trial proceedings, the parties agreed that despite temporary lulls, active hostilities continued until about 18 January 2002<sup>1921</sup> and that the RUF fought against the Sierra Leone Military Forces.<sup>1922</sup> Therefore, it is not in dispute that all crimes charged under Article 3 of the Statute were committed while an armed conflict existed in Sierra Leone.

**(ii) There was a Nexus Between the Armed Conflict and the Alleged Offence:**

695. The military operations by the Indictment Perpetrators relied upon the forced collaboration of the civilian population. Against their will, civilians provided the Indictment Perpetrators with food, materials, labour, transportation assistance, shielding during hostilities, and a means of expression and publicity.<sup>1923</sup> Moreover, it was the conflict itself which prompted campaigns of revenge and suspicion – campaigns of terror, murder, physical and sexual violence, and looting.<sup>1924</sup> Therefore, there was a direct nexus between all crimes charged under Article 3 of the Statute and the armed conflict in Sierra Leone.

**(iii) The Victims were not Directly Taking Part in the Hostilities at the Time of the Alleged Violation:**

696. Civilians<sup>1925</sup> were often targeted during Indictment Perpetrators' military campaigns. They were also the means by which the Indictment Perpetrators were able to continue its participation in the armed conflict.<sup>1926</sup> Therefore, tens of thousands of victims in Sierra Leone,<sup>1927</sup> including the victims of those crimes charged under Article 3, were

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<sup>1920</sup> Judicially Noticed Fact C.

<sup>1921</sup> Agreed Fact, para. 28.

<sup>1922</sup> Agreed Fact, para. 15.

<sup>1923</sup> See the sections below outlining the evidence of the underlying crimes; in particular the section on Enslavement/ Forced Labour.

<sup>1924</sup> *Ibid.*

<sup>1925</sup> Agreed Statement of Law, para. 37: "In the Amended Indictment, the words "civilian(s)" or "civilian population" refer to persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities, including combatants rendered *hors de combat* by virtue of injury or wounds, capture or surrender."

<sup>1926</sup> See the section on Enslavement/ Forced Labour.

<sup>1927</sup> Exh. P-296, pp. 21856-7.

protected persons not directly taking active part in hostilities at the time of the alleged violations.

**(iv) The Accused Knew and Had Reason to Know that the Victims were not Directly Taking Part in the Hostilities at the Time of the Alleged Violation:**

697. The Accused was orchestrating the war in Sierra Leone through his control of the Indictment Perpetrators. Considering his control,<sup>1928</sup> his involvement in the alleged crimes,<sup>1929</sup> and his participation in a joint criminal enterprise which had the ultimate goal of gaining control of Sierra Leone,<sup>1930</sup> the Accused, as required under the fourth prong of the Article 3 contextual elements, knew and had reason to know that the victims were not directly taking part in the hostilities at the time of the alleged violation.

**Conclusion**

698. An armed conflict existed at the time of the alleged violations, there was a nexus between the alleged violations and the armed conflict and the alleged victims were not directly taking part in hostilities at the time of the alleged violations. Accordingly, the Prosecution has proven beyond a reasonable doubt the contextual elements for those crimes charged under Article 3 of the statute.

**Other Serious Violations of International Humanitarian Law, pursuant to Article 4 of the Statute**

**LAW:**

699. The general requirements which must be proved to establish the commission of an other serious violation of international humanitarian law are as follows:

- I. An armed conflict existed at the time of the alleged offence; and
- II. There existed a nexus between the alleged offence and the armed conflict.

<sup>1928</sup> See Sections on Taylor's Responsibility for the Crimes in Sierra Leone and the sections on the modes of liability.

<sup>1929</sup> See Sections on Taylor's Responsibility for the Crimes in Sierra Leone .

<sup>1930</sup> See the section on the Joint Criminal Enterprise.

700. These two elements have been addressed in relation to Article 3 and the same law applies.<sup>1931</sup>

#### **EVIDENCE:**

701. The Accused is charged with one count of “other serious violations of international humanitarian law” pursuant to Article 4(c) of the Statute: conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (Count 9). As required for those crimes charged under Article 4 of the Statute, the Prosecution has proven beyond a reasonable doubt that there was an armed conflict at the time of the alleged violation<sup>1932</sup> and that a nexus existed between the alleged violation and the armed conflict; as the proof of the crime (enlistment or conscription of children, or the use of them to participate actively in hostilities) itself proves the nexus.

### **IX.C. COUNT 1: ACTS OF TERRORISM**

#### **COUNT 1: APPLICABLE LAW<sup>1933</sup>**

702. The Appeals Chamber has confirmed that, in addition to the contextual elements of violations of common article 3 and APII pursuant to Article 3 of the Statute, the crime of acts of terrorism includes the following elements:

- i. Acts or threats of violence;
- ii. The offender wilfully made the civilian population or individual civilians not taking direct part in hostilities the object of those acts or threats of violence; and
- iii. The acts or threats of violence were carried out with the specific intent of spreading terror amongst the civilian population.<sup>1934</sup>

<sup>1931</sup> See CDF Trial Judgement, paras. 138–140. Note in the AFRC Trial Judgement, at para. 257 where the Trial Chamber stated that “crimes listed in Article 4 of the Statute possess the same chapeau requirements as those in Article 3 of the Statute.” However, it is submitted that requirement (iii) of the general requirement for war crimes (that the victim was a person not taking direct part in the hostilities at the time of the alleged violation) is unnecessary, as (a) a child under 15 is *ergo* a protected person, and (b) part of the crime of “use” of child soldiers can involve the direct participation of a child in hostilities, thus such an element is patently inapplicable.

<sup>1932</sup> Judicially Noticed Fact C.

<sup>1933</sup> Given that the crime has been considered by the Appeals Chamber of our court since the AFRC Trial Judgement and in relatively recent judgements of the ICTY Appeals Chamber the applicable law is set out in full.

<sup>1934</sup> CDF Appeal Judgement, para. 350. Notably, the elements of the crime of acts of terrorism were put in slightly different terms by this Trial Chamber in the AFRC Trial Judgement at para. 667, and Trial Chamber II in the CDF Trial Judgement at para. 170.

703. The first element constitutes the *actus reus* which can be established by acts or threats of violence.<sup>1935</sup> In *Galić* the Appeals Chamber of the ICTY stated that the nature of the acts or threats of violence can vary, and that they are not limited to direct attacks against civilians or threats thereof but include indiscriminate or disproportionate attacks or threats.<sup>1936</sup> In the CDF case, the Appeals Chamber confirmed that it is not necessary that the acts or threats of violence satisfy the elements of any other criminal offence.<sup>1937</sup> However, such acts or threats must be capable of spreading terror; to be understood as “the causing of extreme fear.”<sup>1938</sup> The assessment of whether acts or threats of violence are capable of spreading terror is to be judged on a case by case basis.<sup>1939</sup> Notably, however, the ICTY Appeals Chamber in the subsequent case of *Dragomir Milošević* held that the definition of the *actus reus* of the crime of terror does not include “acts capable of spreading terror”; as the latter “does not necessarily imply grave consequences for the civilian population and thus does not *per se* render the violation of the said prohibition serious enough for it to become a war crime within the Tribunal’s jurisdiction.”<sup>1940</sup> To satisfy the *actus reus* requirement the victim/s must have suffered grave consequences, resulting from the acts or threats of violence, which include but are not limited to, death or serious injury to body or health.<sup>1941</sup> Acts or threats of violence against protected persons and property embraces all types of civilian property,<sup>1942</sup> including that which belongs to individual civilians.<sup>1943</sup> The Appeals Chamber relied upon the ICRC Commentary to Additional Protocol II stating that acts of terrorism “covers not only acts directed against people but also acts directed against installations

<sup>1935</sup> CDF Appeal Judgement, para. 351; *Galić* Appeal Judgement, para. 102; *Milošević, Dragomir* Appeal Judgement, para. 32.

<sup>1936</sup> CDF Appeal Judgement, para. 351 and *Galić* Appeal Judgement, para. 102.

<sup>1937</sup> CDF Appeal Judgement, at para. 324 the Appeals Chamber referred to the Trial Chamber having adopted a limited interpretation of acts of terrorism finding that “only those acts for which the Accused have been forced to bear criminal responsibility under another count in the indictment may form the basis of criminal responsibility for acts of terrorism” and at para. 359 the Appeals Chamber held that “this interpretation was too narrow, and that acts of terrorism may be established by acts or threats of violence independent of whether such acts or threats of violence satisfy the elements of any other criminal offence.”

<sup>1938</sup> CDF Appeal Judgement, para. 352, referring to the Trial Chamber in *Galić*, para. 137, where the majority accepted that “terror should be understood as the causing of extreme fear.”

<sup>1939</sup> CDF Appeal Judgement, para. 352.

<sup>1940</sup> *Milošević, Dragomir* Appeal Judgement, para. 34. The Appeals Chamber referred to the *travaux préparatoires* to API, which show that there had been attempts among the delegations to introduce “acts capable of spreading terror” into the language of the prohibition enshrined under Article 51(2) thereof; however, these proposals were not reflected in the final text of the provision.

<sup>1941</sup> *Milošević, Dragomir* Appeal Judgement, para. 33, which further elucidates that the actual infliction of death or serious harm to body or health is not a required element of the crime of terror; rather causing death or serious injury to body or health represents only one of the possible modes of commission of the crime of terror.

<sup>1942</sup> CDF Trial Judgement, para. 172.

<sup>1943</sup> CDF Trial Judgement, para. 173.

which would cause victims terror as a side-effect.”<sup>1944</sup> The Appeals Chamber in the CDF case specifically stated that acts of burning are acts that are potentially capable of spreading terror.<sup>1945</sup>

704. The second and third elements constitute the *mens rea* of the offence. The second element requires that the offender “wilfully” made the civilian population or individual civilians the object of an act or threat of violence.<sup>1946</sup> The Appeals Chamber held that the term “wilfully” requires that the prosecution prove that “an accused acted consciously and with intent or recklessness in making the civilian population or individual civilians the object of an act or threat of violence. Negligence on the other hand, is not enough.”<sup>1947</sup>
705. The third element requires the specific intent to spread terror amongst the civilian population.<sup>1948</sup> The Appeals Chamber has stated that: “the prosecution is required to prove not only that the perpetrators of acts or threats of violence accepted the likelihood that terror would result from their illegal acts or threats, but must prove that that was the result that was specifically intended. The spreading of extreme fear must, therefore, be specifically intended.”<sup>1949</sup> The ICTY Appeals Chamber has stated that: “the purpose of the unlawful acts or threats to commit such unlawful acts need not be the only purpose of the acts or threats of violence. The fact that other purposes may have co-existed simultaneously with the purpose of spreading terror among the civilian population would not disprove this charge, provided that the intent to spread terror among the civilian population was principal among the aims.”<sup>1950</sup> In other words, “while spreading terror must be the primary purpose of the acts or threats of violence, it need

<sup>1944</sup> CDF Appeal Judgement, para. 351. The *ICRC Dictionary of the International Law of Armed Conflict* at pg. 53 refers to “Forces, Dangerous, Works and Installations Containing: Works or installations containing dangerous forces are those whose attack may cause the release of dangerous forces and consequent severe losses among the civilian population. They are mainly dams, dykes and nuclear electrical generating stations....” Also AFRC Trial Judgement, para. 671.

<sup>1945</sup> CDF Appeal Judgement, para. 359.

<sup>1946</sup> CDF Appeal Judgement, para. 353.

<sup>1947</sup> CDF Appeal Judgement, paras. 353–355. At para. 353 the Appeals Chamber refers specifically to the Commentary to Article 85 of API which defines the term “wilfully” as follows: “Wilfully: the accused must have acted consciously and with intent, i.e., with his mind on the act and its consequences, and willing the (criminal intent or malice aforethought), this encompasses the concepts of wrongful intent or recklessness, viz., the attitude of the agent who, without being certain of particular result, accepts the possibility of it happening, on the other hand, ordinary negligence or lack of foresight is not covered.”

<sup>1948</sup> CDF Appeal Judgement, para. 356.

<sup>1949</sup> *Ibid.*

<sup>1950</sup> *Galić* Appeal Judgement, para. 104, AFRC Trial Judgement at para. 669, RUF Trial Judgement, para 121 referring to *Galić*.

not be the only one.”<sup>1951</sup> The specific intent to spread terror can be inferred from the circumstances of the acts or threats including from their nature, manner, timing and duration.<sup>1952</sup> The Trial Chamber can reasonably take into account factors including the actual infliction of terror and the indiscriminate nature of an attack/s in determining the specific intent of the accused.<sup>1953</sup>

706. As regards the *mens rea* of the crime of terror, the Appeals Chamber has stated that when considering the crime in relation to the Accused’s liability for JCE 1 the Trial Chamber need not make a determination of the *mens rea* of the perpetrator of the act or threat of violence, rather the Trial Chamber need only be satisfied that a member of the joint criminal enterprise, vis-à-vis whom the act is imputed has the requisite *mens rea* for the offence.<sup>1954</sup>

707. The actual infliction of terror against persons or property is not a required element of the offence.<sup>1955</sup> However, evidence of actual terrorisation may contribute to establishing other elements of the crime of terror, including the *mens rea* requirement.<sup>1956</sup>

#### **COUNT 1: EVIDENCE**

708. The evidence proves beyond reasonable doubt the Accused’s guilt in respect of Count 1 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>1957</sup>

#### **Campaign of Terror**

709. As discussed in other Sections of the Brief, the ultimate objective of the Indictment Crimes was to forcibly control the territory and population and to pillage the resources

<sup>1951</sup> Milošević, Dragomir Appeal Judgement, para. 35.

<sup>1952</sup> Galić Appeal Judgement, para. 104. This was confirmed by the Appeals Chamber in the CDF Appeal Judgement, at para. 357; Milošević, Dragomir Appeal Judgement, para. 35.

<sup>1953</sup> Milošević, Dragomir Appeal Judgement, para. 35.

<sup>1954</sup> RUF Appeal Judgement, para. 655, where the Appeals Chamber states that “under JCE 1 liability, the Trial Chamber was not required to find, as an element of the liability of JCE members, that non-members who carried out the *actus reus* of the crime had the requisite *mens rea* for the crime of acts of terrorism. Rather, in addition to finding that the members of the JCE shared the intent to commit the crime and finding that the acts of non-members who carried out the *actus reus* of crimes could be imputed to a member of the JCE, the Trial Chamber was only required to find that the acts of the non-members satisfied the *actus reus* of the offence,” see also para. 656.

<sup>1955</sup> CDF Trial Judgement, para. 175 and Galić Appeal Judgement, paras 103-104 and Galić Trial Judgement, para. 134; Milošević, Dragomir Appeal Judgement, para. 35.

<sup>1956</sup> Milošević, Dragomir Appeal Judgement, para. 35 and para. 37.

<sup>1957</sup> Indictment, paras. 5-8; Amended Case Summary, paras. 22 & 23; Pre-Trial Brief, paras. 7, 34, 40, 43, 47, 51, 65, 69, 96, 98, 101, 110, 111; & the crime base evidence set out in the sections below.

of Sierra Leone, in particular diamonds. However, the primary purpose of the criminal means by which these ultimate objectives were to be achieved was terror. Terror was deliberate, organised and spread via a campaign involving the commission of a multiplicity of crimes including burning and the crimes charged in Counts 2 through 11 in the Indictment.<sup>1958</sup> Many of the signature acts of the Indictment Perpetrators can only be explained as a deliberate strategy to spread fear.

710. [REDACTED]:

[REDACTED]

<sup>1959</sup>

711. This link is further evidenced by the fact that crimes were often committed pursuant to the order recurrent throughout the conflict to “make an area fearful.”<sup>1960</sup> This order meant to kill, to burn down houses so that people living in the area would be afraid and even enemy fighters would be afraid.<sup>1961</sup> A message to make an area fearful meant to “...destroy, kill, amputate, destroy bridges, set road blocks.”<sup>1962</sup>

712. The degree of organisation and level of coherence, consistency and efficiency with which the crimes were committed against civilians by the Indictment Perpetrators throughout the decade long conflict belied that they were the chaotic results of warfare.<sup>1963</sup> Rather, what emerged was a pattern of criminal conduct, a *modus*

<sup>1958</sup> Amended Case Summary, paras. 22 & 23. See also the sections dealing with each Count below all of which provide examples of the terror spread by the specific crimes charged.

<sup>1959</sup>

<sup>1960</sup> e.g., [REDACTED]; TF1-334, TT, 23 April 2008, pp. 8416-18; TF1-367, TT, 20 August 2008, pp. 14161-65; TF1-275, TT, 22 February 2008, pp. 4561-62.

<sup>1961</sup> TF1-532, TT, 31 March, p. 6224. TF1-375 testified that Mongor was one of the senior officers who issued such an order (TT, 23 June 2008, p. 12511).

<sup>1962</sup> TF1-360, TT, 6 February 2008, p. 3235. Also TF1-360, TT, 5 February 2008, p. 3150. See further TF1-568, TT, 15 September 2008, p. 16171; and TF1-571, TT, 8 May 2008, p. 9323.

<sup>1963</sup> Examples of the organisation and coherence which attended the commission of crimes are the records of captured civilians and child soldiers kept by the RUF (see sections on Counts 4-6 (Sexual Violence), Count 9 (Child Soldiers) & Count 10 (Forced labour) below), the military training given to forced recruits (see sections on Count 9 (Child Soldiers) & Count 10 (Forced labour) below) and the strategy that fighters should be self-remunerating (see section on Count 11 (Looting) below). Consistency is evidenced by the fact that victims of violence were given similar messages to deliver to Kabbah and/or ECOMOG (see section on Counts 4-6 (Sexual Violence) & Counts 7-8 (Physical Violence) below) and the public displaying of corpses and body parts (see section on Counts 2-3 (Unlawful Killings) below). In relation to efficiency, see for example the manner in



*operandi*, which demonstrated that all the Indictment Crimes formed part of a concerted campaign of terror against the civilian population.<sup>1964</sup> This campaign spanned the entire conflict and country but was particularly pronounced during the Indictment Period in the Districts charged.

713. Civilians were specifically targeted in the campaign, and the breadth of crimes committed ensured that no part of society was left untouched.<sup>1965</sup> The rebels adopted the Liberian forces' slogan "civilians do not have blood," meaning there was "no respect for human life," as the basis of the strategy pursued on the ground.<sup>1966</sup> Throughout the conflict, including the Indictment Period, the principal aim of the attacks directed against civilians was to spread terror but such attacks also punished,<sup>1967</sup> prevented information being passed to ECOMOG,<sup>1968</sup> sent political messages to ECOMOG and Kabbah,<sup>1969</sup> and attracted international attention.<sup>1970</sup> That civilians were the specific targets of the attacks is further evidenced by the fact that in the vast majority of cases there was no enemy present, only civilians.<sup>1971</sup>
714. The *modus operandi* of committing crimes to spread terror was followed at all stages of the conflict in Sierra Leone. The importance of terror as a tactic can be traced to Liberia where it was instilled in those who trained and/or fought there, those receptive to this tactic because, as the Accused was aware, many or most of the fighters were seeking revenge.<sup>1972</sup> The tactics employed by the NPFL in Liberia to create fear were

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which burnings were perpetrated in Freetown (see section on Count 1 (Terror) in relating to burnings in Freetown).

<sup>1964</sup> e.g. [REDACTED]; Exh. P-306, p. 21438, para. 4; Exh. P-307, para. 36; Exh. P-366, p. 22798; Exh. P-78, p. 10 - [REDACTED]

[REDACTED]. See also Exh. P-81, paras. 4-5.

<sup>1965</sup> The object of the attack included people living in the areas. See also [REDACTED]. See further the discussion in section on Contextual Evidence above regarding the evidence that the victims of the attacks were civilians and also the sections on each Count below establishing the wide reach of the crimes in that no part of the civilian population was safe.

<sup>1966</sup> [REDACTED]; TF1-375, TT, 23 June 2008, pp. 12513-14; TF1-406, TTs, 9 January 2008, p. 810 & 10 January 2008, pp. 929, 988; and [REDACTED]. [REDACTED]

<sup>1967</sup> Exh. P-328, p. 23000. See also the orders given by Gullit during the Freetown invasion at paras. 742 & 748 below.

<sup>1968</sup> TF1-585, TT, 8 September 2008, pp. 15674-75.

<sup>1969</sup> See section on Counts 7-8 (Physical Violence) below.

<sup>1970</sup> See below and also TF1-274, TT, 3 December 2008, p. 21590.

<sup>1971</sup> TF1-334, TT, 18 April 2008, p. 7984; TF1-060, TT, 29 September 2008, pp. 17529-31. See also the testimony of TF1-334 regarding the strategy of the AFRC/RUF forces in Kono (TF1-334, TT, 17 April 2008, pp. 7950-51).

<sup>1972</sup> Exh. D-118, p. 2 & Accused, TT, 19 November 2009, pp. 32242-51. Contrary to DCT-008's in-court testimony in which he denied wanting revenge (TT, 8 September 2010, p. 48255), this witness' summaries in Exh. P-598 indicate the killings of his brother and grandfather by Doe's army prompted him to join the NPFL.

described to the Court by the former NPFL fighter and Death Squad commander, Zigzag Marzah. He explained that the NPFL displayed body parts such as heads and intestines on car bumpers and at checkpoints to create fear.<sup>1973</sup> The Accused knew about these checkpoints as he drove through them.<sup>1974</sup> Indeed, the Accused made his fighters “understand that as guerillas (sic) you have to play with human blood so that the enemy forces [will] be afraid of you.”<sup>1975</sup> Civilians also had to be afraid. At Camp Naama, NPFL trainer Isaac Mongor taught RUF recruits that, when attacking a village, half the people should be killed in order to intimidate and gain control over survivors.<sup>1976</sup>

715. “[T]error was the common denominator between Liberia and Sierra Leone”<sup>1977</sup> [REDACTED]

[REDACTED]  
[REDACTED]<sup>1978</sup> The training received by RUF recruits during the pre-Indictment period in Liberia with its focus on the commission of crimes against civilians was similar to the training given at camps operational in Sierra Leone including during the Indictment Period. The fact that attacks on civilians were part of training provides further support for the conclusion that this protected group was specifically targeted.<sup>1979</sup>

716. The terror campaign implemented by the Indictment Perpetrators was an efficient tactic which allowed territory to be acquired and control to be gained over the civilian population quickly and generally with minimal effort and use of resources.<sup>1980</sup> As in Liberia, terror was particularly effective in the circumstances prevailing during the Sierra Leone war where a relatively small rebel force was pitched against a substantially larger civilian population. Indeed, in the pre-Indictment period, the RUF’s burgeoning reputation for brutality allowed them to gain territory without a shot being fired,

<sup>1973</sup> TF1-399, TT, 12 March 2008, p. 5863. See also TF1-367, TT, 20 August 2008, pp. 14081, 14083-84; TF1-532, TT, 31 March 2008, p. 6226.

<sup>1974</sup> TF1-399, TT, 12 March 2008, p. 5864. See also TF1-367, TT, 20 August 2008, pp. 14081, 14083-85; TF1-532, TT, 31 March 2008, p. 6226. See also the Accused’s testimony regarding the significance of these “symbols of death” referred to in the section on Taylor’s *Mens Rea* above.

<sup>1975</sup> TF1-399, TT, 12 March 2008, p. 5864. See also TF1-561, TT, 14 May 2008, p. 9862: “a guerrilla (sic) war ... is destruction ... You are not eating bread and butter, you are fighting.”

<sup>1976</sup> [REDACTED]; DCT-172, TT, 16 August 2010, p. 46317.

<sup>1977</sup> TF1-588, TT, 23 September 2008, p. 16964.

<sup>1978</sup> [REDACTED]. Also [REDACTED]

<sup>1979</sup> [REDACTED]. See also TF1-263, TT, 6 October 2008, pp. 17928-31 (training on burning houses). See further sections on Counts 7-8 (Physical Violence) & Count 9 (Child Soldiers) below.

<sup>1980</sup> See the crime base sections below which describe in greater detail the control aspect of the crimes.

civilians having fled in advance of the rebels' arrival.<sup>1981</sup> In the Indictment Period, for example, during the Freetown Invasion, terrified civilians stayed locked in their houses.<sup>1982</sup> The paralysing effect of terror on civilians is particularly evident in the testimonies of witnesses who are former sex slaves, forced labourers and child soldiers.<sup>1983</sup>

717. In order to maximise the terror effect and enhance their dreadful reputation, the rebels used various tactics to intensify the level of fear experienced by their victims and on-lookers. These terror tactics included making civilians participate in and/or witness the commission of crimes including against their own relatives<sup>1984</sup> and the deliberate assault on cultural norms through public rapes and attacks on places of worship where civilians traditionally sought refuge.<sup>1985</sup> The rebels also used the arbitrary selection of their victims to terrify. Games were played to decide if men lived or died. Sahr Bindi described to the Court the quirk of fate which meant he lived: "There were seven stones. ... they showed them to us. If it hits you, your arm would be chopped off. If it doesn't, you will be killed." Bindi witness was hit with a pebble. As dictated by the rules of the game, his left hand was amputated but only after he had watched six fellow captives get hacked to death in front of him.<sup>1986</sup> In this context, many victims did not understand what they had done to justify the attack, asking, "Why me?" or, "What did I do?"<sup>1987</sup> But the apparent random selection of victims was indicative of the deliberate purpose which was to "create an atmosphere of complete terror."<sup>1988</sup>
718. The display of heads, body parts and corpses was one of the most prevalent terror tactics used by the Indictment Perpetrators both before and during the Indictment

<sup>1981</sup> See DCT-068, TT, 11 March 2010, p. 37125. See also DCT-306, TT, 19 April 2010, pp. 39256-57. Reference is also made to the 1994 attack on Sierra Rutile, an attack organised with the involvement of the Accused, the aim of which was to instil fear in government soldiers and civilians (TF1-045, TT, 12 November 2008, pp. 20097-101).

<sup>1982</sup> See below and see also the section on Counts 2-3 (Killings) in Freetown.

<sup>1983</sup> See sections on Counts 4-6 (Sexual Violence), Count 9 (Child Soldiers) and Count 10 (Forced Labour) below.

<sup>1984</sup> See for example para. 779 below regarding a man who was forced to kill his own father.

<sup>1985</sup> See para. 857 below regarding public rapes and para. 828 regarding the killings at Rogbalan Mosque.

<sup>1986</sup> TF1-197, TT, 16 October 2008, pp. 18523-28. The incident occurred in Yardu, Kono in the dry season of 1998 (p. 18517-19). Also [REDACTED].

<sup>1987</sup> See TF1-015, TT, 8 January 2008, pp. 699-700: SBUs amputated both hands and both feet of a young boy who screamed and shouted "What have I done that you are doing this to me?" They then threw him into a toilet pit. See also TF1-358, TT, 19 November 2008, p. 20603. See further Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20611.

<sup>1988</sup> Exh. P-328, p. 23000.

Period.<sup>1989</sup> The effect of such tactics was ably described to this Chamber by Emmanuel Bull:

I felt so bad about everything. ... the environment was so violent ... For me to look and see dead bodies - I turned and I saw a head cut off and then somebody is telling me, "You, we are going to make your head like this" and, you know, I thought that I am dead already, you know. I thought I was dead.<sup>1990</sup>

719. However, it was not just the bodies of the dead which were used in the terror campaign. The bodies of living civilians were also used "to convey political messages that were messages of terror."<sup>1991</sup> Some of these terror messages were "inscribed literally on [living] human bodies"<sup>1992</sup> as civilians were brutally and indelibly marked with the initials of the forces which brought terror to their communities.

720. Amputation was perhaps the most well known and effective terror tactic of the Sierra Leone war. This particular manifestation of the terror message was again conveyed to Sierra Leoneans in 1996 when people's arms were amputated and they were told to "Pul den an komot pan di ilekshon" or "Take your hands from the election."<sup>1993</sup> This plan to disrupt the 1996 elections through terror was communicated by Sankoh to the Accused who responded that "the plan [was] not a bad plan at all."<sup>1994</sup> As the conflict progressed, this message evolved during the Indictment Period into "Pull yu han pan di war. Pull yu foot pan di war" or "Take your hand off the war, take your foot off the war."<sup>1995</sup> This message was conveyed to civilians as their limbs were amputated.<sup>1996</sup>

Defence Witness DCT-306 agreed that amputation was particularly effective and

<sup>1989</sup> For the pre-Indictment Period, see TF1-539 who testified that human heads were placed on sticks at RUF check points in Kailahun in 1991 (TT, 10 June 2008, pp. 11383-84); DCT-306 who testified that Kafai Wai's head was put on a stick to continue to frighten people (TT, 19 April 2010, p. 39260); and TF1-532, TT, 31 March 2008, pp. 6225-26. For the Indictment period, see: TF1-065 who testified that a Kamajor called "Kai Sandy" was shot dead by RUF rebels in Mamboma, Nimikoro Chiefdom, in April 1998 and his head and private parts were then displayed on a stick (TT, 24 September 2008, pp. 17093-94, 17099- 17100, 17106); TF1-459 corroborates this account of the display of a head on a stick in Mamboma (TT, 25 September 2008, pp. 17264-67); TF1-334 who described the display of corpses in the street in Mamamah, Port Loko in April/May 1999 (TT, 23 April 2008, pp. 8416-18). See also the examples in [REDACTED]; TF1-375, TT, 23 June 2008, pp. 12511-14; and TF1-210, TT, 30 October 2008, pp. 19585-87. See paras. 714 above regarding the Liberian practice.

<sup>1990</sup> TF1-459, TT, 25 September 2008, p. 17267.

<sup>1991</sup> TF1-588, TT, 23 September 2008, p. 16964.

<sup>1992</sup> TF1-588, TT, 23 September 2008, p. 16964. See also the following testimonies which recount the practice of carving the initials "RUF" and "AFRC" on the bodies of civilians: TF1-326, TT, 18 January 2008, pp. 1665-6; TF1-143, TT, 5 May 2008, pp. 8976-7; [REDACTED]; Corinne Dufka, TT, 21 January 2008, p. 1814; [REDACTED].

See further section on Counts 7-8 (Physical Violence) below.

<sup>1993</sup> TF1-045, TT, 13 November 2008, p. 20160. See also DCT-306, TT, 14 April 2010, pp. 39016-17.

<sup>1994</sup> TF1-532, TT, 10 March 2008, pp. 5689-93.

<sup>1995</sup> TF1-584, TT, 18 June 2008, pp. 12205-09. See also Exh. P-16.

<sup>1996</sup> See section dealing with Counts 7-8 (Physical Violence) below.

caused more terror than killing as the mutilations acted as a constant reminder of what might happen.<sup>1997</sup> Amputees, thus, represented the act and threat of violence against civilians.

721. The public commission of the majority of the crimes further demonstrates that their primary purpose was to spread terror. Women were raped while hundreds watched terrified,<sup>1998</sup> men stood in line to be amputated,<sup>1999</sup> brutalised child soldiers were posted at check points to harass local inhabitants,<sup>2000</sup> men were executed in full view of the community,<sup>2001</sup> AFRC and/or RUF inscribed on bodies of captives remained there for all to see.<sup>2002</sup> The bodies of those killed were then often deliberately left unburied to spread terror amongst the survivors.<sup>2003</sup>

722. The public element was emphasised further as the rebels harnessed the media to transmit their threats of violence to civilians and to spread their dreadful reputation.<sup>2004</sup> In a society in which the majority of the population relied on the radio for news, this was an effective method of reaching even the remotest corner of the country.<sup>2005</sup> The RUF and AFRC/RUF forces all used the media to convey their messages of violence. The most chilling examples were Eldred Collins' announcement of "Operation Spare No Soul" on BBC radio in August 1998<sup>2006</sup> and Sam Bockarie's messages in the run up to the Freetown Invasion:

7 September 1998: ... Bockarie ... threatened ... **"I will order my troops to kill every living thing including chickens** if our leader is not released."<sup>2007</sup>

19 November: RUF commander Sam "Maskita" Bockarie [said] ... **"I am a ruthless commander," ... When I take Freetown I shall clear every living thing**

<sup>1997</sup> DCT-306, TT, 19 April 2010, p. 39261.

<sup>1998</sup> TF1-189, TT, 17 September 2008, pp. 16497-99. [REDACTED]

<sup>1999</sup> See for example TF1-217, TT, 29 October 2008, pp. 19412-17; TF1-331, TT, 22 October 2008, pp. 18988-97. See also [REDACTED].

<sup>2000</sup> Exh. P-196 (RUF Transcript of TF1-077, 21 July 2004), pp. 18633-34.

<sup>2001</sup> See DCT-306's account of the killings in Kailahun (TT, 19 April 2010, pp. 39261-64). See also DCT 172, TT, 13 August 2010, pp. 46205-09.

<sup>2002</sup> See further the evidence in the section dealing with Counts 7-8 (Physical Violence) below.

<sup>2003</sup> See DCT-172, TT, 13 August 2010, p. 46209. See also TF1-334, TT, 17 April 2008, pp. 7954-55.

<sup>2004</sup> The Accused's own use of the radio to transmit threats such as the "bitterness of war" threat is recalled (see TF1-210, TT, 30 October 2008, p. 19629; Exh. P-31, p. 7; and DCT-172, TT, 17 August, p. 46453). It is recalled that threats as well as acts are part of the first element of the crime of acts of terrorism (see the applicable law above).

<sup>2005</sup> TF1-585, TT, 8 September 2008, pp. 15674-76.

<sup>2006</sup> [REDACTED]. See also Exh. P-306, p. 21438, para. 4.

<sup>2007</sup> Exh. P-431 (emphasis added).

**and building. To my God, I'll fight. I'll kill and kill, and the more they tell me to stop, the more I'll kill.**"<sup>2008</sup>

27 December: Bockarie ... made claims that his fighters had captured [Makeni], saying .. that the rebels had **killed 60 ECOMOG soldiers and dragged their bodies through the streets "as an example to everyone."**<sup>2009</sup>

723. The above extracts starkly demonstrate that the high command, particularly but certainly not only Sam Bockarie, thrived on its ruthless reputation. The crime base sections below further demonstrate the active involvement of commanders in all the Indictment Crimes.<sup>2010</sup> Indeed, this evidence combined with the scale, intensity, consistency and length of the terror campaign establishes that these crimes were not the unintended by-product of war but were orchestrated, ordered, mandated and endorsed at all levels throughout the conflict. The terror campaign was how the rebels waged war.

### **Burning of Civilian Property**

#### **General**

724. Burning was an essential part of the strategy to make an area fearful.<sup>2011</sup> From the beginning of the conflict to its end civilian houses and property were burned in all parts of Sierra Leone, the high command ordering that towns "should be burnt to ground level" with not even a toilet building to be spared.<sup>2012</sup> Two Districts which suffered particular devastation were Kono in the aftermath of the Intervention and the lead up to the Freetown Invasion and Freetown and the Western Area during the 1998/1999 invasion period.<sup>2013</sup>

#### **Kono District**

725. When the rebel forces retreated to Kono District following the Intervention, the strategy to be pursued against civilians in this District was made clear by JPK. At a meeting in Tankoro village attended by Hassan Papa Bangura, Dennis Mingo, Issa Sessay, Mike

<sup>2008</sup> Exh. P-430B, para. 1 (emphasis added). The following Defence witnesses all confirmed Bockarie made this threat: DCT-146, TT, 12 April 2010, pp. 38659-60; DCT-292, TT, 2 June 2010, pp. 41984-85; and DCT-172, TT, 13 August 2010, pp. 46218-19.

<sup>2009</sup> Exh. P-430D (emphasis added).

<sup>2010</sup> DCT-172 testified that the entire RUF high command (including Foday Sankoh, Mike Lamin, Dennis Mingo, Isaac Mongor, Gibril Massaquoi) committed crimes against the civilian population of Sierra Leone (TT, 16 August 2010, pp. 46315-20).

<sup>2011</sup> TF1-532, TT, 31 March, p. 6224; TF1-360, TT, 5 February 2008, p. 3150; TF1-568, TT, 15 September 2008, p. 16171.

<sup>2012</sup> P-135 & TF1-577, TT, 4 June 2008, pp. 10969-71. Note throughout this crime base section descriptions of attacks involving burnings are given.

<sup>2013</sup> Indictment, paras. 6-8.

Lamin and other commanders, he declared that “Kono ... should be a no go area for civilians,” and specifically directed that houses should be burned down.”<sup>2014</sup> Between about 1 February and about 31 December 1998, this strategy underpinned the forces’ actions and operations throughout the District resulting in attacks on various towns and villages including those specifically mentioned in the Indictment. As the former fighter, Witness A.B. Sesay, observed:

... within March/April ... At that time we had **a continuous attack and burning of houses**. That was our operation in Kono. Because at that time **we hadn't any enemy threat**. We were **just burning and attacking civilians**.<sup>2015</sup>

### Koidu

726. Koidu Town was the destination for the majority of the retreating forces after the Intervention. [REDACTED]

[REDACTED]<sup>2016</sup> Following the forces’ arrival, AFRC/RUF fighters burned and looted houses for about two days including in the Hill Station area of the town.<sup>2017</sup> Some of the houses targeted were allegedly those of Kamajors or Kamajor supporters. Houses were burned with people often still inside.<sup>2018</sup> The screams of those trapped inside were heard by all around and later their skulls and bones were clearly visible amongst the charred ruins.<sup>2019</sup> The “Juntas and RUF” told the civilians that they were not wanted in Koidu and threatened they would “see to it that Koidu Town [was] converted into a farm.”<sup>2020</sup> The effect of seeing such destruction was described by Gibril Sesay:

Well, at that time human beings were not feeling good and I was not feeling good because we could not imagine those juntas and the rebels coming to just destroy and nothing developmental. They only went to destroy people, so I did not feel good about it - about them at all.<sup>2021</sup>

<sup>2014</sup> TF1-334, TT, 17 April 2008, pp. 7950-51 (emphasis added).

<sup>2015</sup> TF1-334, TT, 18 April 2008, p. 7984 (emphasis added). See also Exh. P-332.

<sup>2016</sup> [REDACTED]

<sup>2017</sup> TF1-201, TT, 31 October 2008, pp. 19692-95. See also TF1-217, TT, 28 October 2008, pp. 19383-91. See further Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19459-62; the witness heard rebels had started burning houses at the time when “the kamajors had turned into soldiers” (p. 19460). Combined with the evidence of TF1-201 and TF1-217 it can be inferred that TF1-195 was describing the period following the ousting of the Kamajors from Koidu by the AFRC/RUF forces just after the Intervention. Also see TF1-114, TT, 15 January 2008, pp. 1241-43.

<sup>2018</sup> TF1-375, TT, 23 June 2008, pp. 12504-05. See also Exh. P-332, p. 23207.

<sup>2019</sup> TF1-375, TT, 23 June 2008, pp. 12504-05.

<sup>2020</sup> TF1-217, TT, 28 October 2008, pp. 19383-91.

<sup>2021</sup> TF1-217, TT, 28 October 2008, pp. 19390-91.

727. The AFRC/RUF forces remained in Koidu Town for a period of weeks before they were pushed out by ECOMOG. As this point Morris Kallon, acting on the orders of Sam Bockarie, ordered that “Koidu should be burnt down”<sup>2022</sup> and it was burned down.<sup>2023</sup>

728. Koidu Town was burnt almost to the ground, some 100 or more houses burned, with “human beings who [had] died in the fire in the houses ... roasted.”<sup>2024</sup> After Koidu Town was burned down, Sam Bockarie promoted Kallon.<sup>2025</sup>

#### Tombodu or Tumbodu

729. After Koidu was initially secured by the AFRC/RUF forces, the town was used as a base from which to launch other attacks in the District<sup>2026</sup> to make sure civilians left the area.<sup>2027</sup> One such attack was made on Tombodu during which houses were burnt.<sup>2028</sup> Once Tombodu was secured, Savage became the battalion commander there.<sup>2029</sup> Savage lived up to his name as he commenced a reign of terror in the town. A.B. Sesay testified that he along with Bomb Blast and Bazzy witnessed Savage place 15 civilians in a house and set it on fire.<sup>2030</sup> No one escaped as the house was surrounded by soldiers.<sup>2031</sup> Savage later showed Superman where he had “cremated” the civilians.<sup>2032</sup> Superman did not take any action against Savage but instead sat and drank palm wine with him.<sup>2033</sup> On another occasion in April 1998, approximately 53 civilians including

<sup>2022</sup> TF1-275, TT, 21 February 2008, pp. 4504-05; [REDACTED]; TF1-532, TT, 31 March 2008, pp. 6217-18; TF1-567, TT, 2 July 2010, pp. 12897-98. The overarching order to make Kono a “no go” area for civilians is recalled. Therefore, the primary purpose of the burning of Koidu was to instil fear in civilians.

<sup>2023</sup> TF1-114, TT, 15 January 2008, pp. 1241-43: the witness watched his fellow RUF and Junta burn houses on the orders of the high command. See also TF1-360, TT, 5 February 2008, pp. 3103-04. TF1-375, TT, 23 June 2008, p. 12521: this witness took part in the burning.

<sup>2024</sup> TF1-114, TT, 15 January 2008, p. 1246. See also TF1-375, TT, 23 June 2008, p. 12521; and TF1-532, TT, 31 March 2008, pp. 6217-19.

<sup>2025</sup> TF1-532, TT, 31 March 2008, p. 6219. See also TF1-516, TT, 9 April 2008, pp. 7130-31.

<sup>2026</sup> TF1-375, TT, 23 June 2008, pp. 12509-10.

<sup>2027</sup> TF1-334, TT, 18 April 2008, p. 7982.

<sup>2028</sup> TF1-375, TT, 23 June 2008, p. 12511 and TF1-334, TT, 18 April 2008, pp. 7982-85. See also Exh. 105: location no. 7 is Tombodu (TF1-334, TT, 18 April 2008, p. 8037).

<sup>2029</sup> TF1-334, TT, 18 April 2008, p. 7994.

<sup>2030</sup> TF1-334, TT, 18 April 2008, pp. 7994-97. See also TF1-304 who observed a house with the inscriptions “Captain Savage” and “6,000 people more will die”; the witness saw human skulls and bones in every room of a house on Yusufuya Road in Tombodu and was told by rebels that Savage and Staff Alhaji had locked people in the house and set it on fire (Exh. P-199A (RUF Transcript of TF1-304, 12 January 2005), pp. 18915-17).

<sup>2031</sup> TF1-334, TT, 18 April 2008, p. 7997. This incident is also referred to in the sections on Counts 2-3 & 7-8 below.

<sup>2032</sup> TF1-334, TT, 18 April 2008, pp. 7999-8001.

<sup>2033</sup> TF1-334, TT, 18 April 2008, pp. 7999-8001. See also TF1-375, TT, 23 June 2008, p. 12514.



suckling mothers and children were burned to death in a house in Tombodu on the orders of Staff Alhaji.<sup>2034</sup>

730. The destruction of Tombodu during the rebel occupation was devastating. One witness testified that when he left the town in March 1998 there were 360 houses. When he returned in February 1999, all save 21 houses had been burnt down.<sup>2035</sup> As discussed below in the section concerning unlawful killings in Tombodu, the upper echelons of the AFRC/RUF were aware of the activities of savage and his subordinates but took no disciplinary action.

#### Sewafe or Njaima Sewafe

731. Sewafe or Njaima Sewafe<sup>2036</sup> was one of the villages which the retreating AFRC/RUF forces attacked after the Intervention.<sup>2037</sup> Despite the absence of any enemy forces, civilian houses in the village were burned on the orders of JPK.<sup>2038</sup>

#### Wendedu

732. Just after April 1998, Wendedu aka Wondedu aka Wendadu<sup>2039</sup> was a village in which civilians “were under captivity” and being terrorised by rapes and mutilations.<sup>2040</sup> Captain KS Banya, an AFRC commander, ordered SBUs to “light candles,” a euphemism for burning down houses.<sup>2041</sup> Witness TF1-015 saw SBUs burn down five houses.<sup>2042</sup>

<sup>2034</sup> TF1-216, TT, 28 October 2008, pp. 19338-40, 19343 & 19355: civilians from Masundu were burned on the same day TF1-216’s hands were amputated, sometime in April 1998. See also Exh. P-14. See corroborating testimony of TF1-210, TT, 30 October 2008, pp. 19601-10.

<sup>2035</sup> Exh. P-199A (RUF Transcript of TF1-304, 12 January 2005), pp. 18912-13. See also TF1-197, TT, 16 October 2008, pp. 18501-02. See further TF1-077, TT, 14 October 2008, p. 18233.

<sup>2036</sup> TF1-334 explained that Sewafe is also known as Njaima Sewafe (TT, 18 April 2008, p. 7988). Also Exh. P-105: location no. 4 is Sewafe (TF1-334, TT, 18 April 2008, p. 8037).

<sup>2037</sup> TF1-360, TT, 5 February 2008, pp. 3100-01: “From Magburaka we went to Matotoka, from Matotoka we went to Makali, from Makali we went to Sewafe, from Sewafe, Bumpe, from Bumpe we entered Koidu Town. ... Most of the towns I have referred to, and the villages, they were burnt down before we got to Kono itself.” See also TF1-334, TT, 21 April 2008, p. 8058.

<sup>2038</sup> TF1-334, TT, 17 April 2008, pp. 7944-45: the witness, together with Superman and Bomb Blast burned houses in the village. See also TF1-360, TT, 5 February 2008, pp. 3100-01. See also TF1-334, TTs, 18 April 2008, pp. 7987-88 & 21 April 2008, p. 8058.

<sup>2039</sup> As recognised by this Chamber, the same location may be spelt differently (AFRC Judgement, para. 115). Note the evidence of the following witnesses: TF1-015, TT, 8 January 2008, p. 704: Wondedu is in Kono District; TF1-217, TT, 28 October 2008, pp. 19398-99: Wendadu is a village two miles outside Koidu.

<sup>2040</sup> TF1-015, TT, 8 January 2008, pp. 683 (time frame), 704-07 & 721.

<sup>2041</sup> TF1-015, TT, 8 January 2008, pp. 707, 722.

<sup>2042</sup> TF1-015, TT, 8 January 2008, pp. 722-3. See also TF1-217, TT, 28 October 2008, pp. 19398-99.

### Bumpe

733. Bumpe was also a village which was burned by the retreating forces on their way to Koidu.<sup>2043</sup> It was attacked again in March/April 1998 by AFRC/RUF forces “to move civilians away from the entire area.”<sup>2044</sup> Civilians were the specific object of the attack as it was believed they would pass information to the enemy.<sup>2045</sup> During the attack by AFRC/RUF fighters, civilians were decapitated and their heads placed on sticks at guard posts to create fear. The town was also almost completely burnt down.<sup>2046</sup> In some cases, civilians were locked in houses and burned alive as soldiers and RUF were posted outside to prevent escape.<sup>2047</sup>

### Other locations in Kono District<sup>2048</sup>

734. Villages and towns throughout Kono District were burned as AFRC/RUF forces pursued the strategy of making Kono a “No Go Area” for civilians. The evidence establishes that civilians were targeted, attacked and subjected to horrific crimes including burnings by the AFRC/RUF at Yekeyor,<sup>2049</sup> Paema,<sup>2050</sup> Njaima Nimikoro,<sup>2051</sup>

<sup>2043</sup> TF1-360, TT, 5 February 2008, pp. 3100-01: “From Magburaka we went to Matotoka, from Matotoka we went to Makali, from Makali we went to Sewafe, from Sewafe, Bumpe, from Bumpe we entered Koidu Town. ... Most of the towns I have referred to, and the villages, they were burnt down before we got to Kono itself.”

<sup>2044</sup> TF1-334, TT, 18 April 2008, p. 7984. See also TF1-360, TT, 5 February 2008, pp. 3154-55.

<sup>2045</sup> TF1-375, TT, 23 June 2008, pp. 12511-13.

<sup>2046</sup> TF1-334, TT, 18 April 2008, pp. 7984-85. See also TF1-360, TT, 5 February 2008, pp. 3150, 3152. See further TF1-375, TT, 23 June 2008, p. 12512: this witness burnt houses in Bumpe and testified that civilians were decapitated and their heads placed at checkpoints to make the area fearful.

<sup>2047</sup> TF1-334, TT, 18 April 2008, pp. 7985-87. See also Exh. P-332, p. 23207.

<sup>2048</sup> Although these towns in Kono District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of burnings at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>2049</sup> TF1-263, TT, 6 October 2008, pp. 17891-93: the witness saw the houses on fire in Yekeyor from his vantage point in the neighbouring village of Pakidu. The witness met people from Yekeyor who told him the houses were set on fire by “rebels.” This incident occurred at the time the “soldiers” were setting fire to Koidu (p. 17891). Based on the evidence referred to above, Koidu was burned several weeks after the Intervention. Therefore, Yekeyor was burned in early to mid 1998.

<sup>2050</sup> TF1-216, TT, 27 October 2008. Paema is in Kono District (p. 19316). The witness went to Guinea shortly after the Intervention but returned to Paema approximately one and a half months later (pp. 19318, 19328). The witness’ house was burnt down by men in uniform while his 3 children and aunt were inside - none survived (pp. 19333-36).

<sup>2051</sup> TF1-360, TT, 5 February 2008, pp. 3150-52. Nimikoro was attacked and fighters “burned down the town” in 1998 following the Intervention. The attack occurred after Morris Kallon addressed the men at Superman Ground and told them to make Kono fearful. See also TF1-532 who sent men to assist with the Njaima Nimikoro mission and heard Morris Kallon was the commander of the mission (TTs, 11 March, p. 5752 & 31 March 2008, p. 6223).

Jagbwema Fiamma,<sup>2052</sup> Yengema,<sup>2053</sup> Koidu Geya,<sup>2054</sup> Kongofinja<sup>2055</sup> and along the road from Motema to Bumpe.<sup>2056</sup>

### Freetown and Western Area

735. Gun fire and smoke heralded the AFRC/RUF force's march into Freetown and its environs.<sup>2057</sup> This force sought to gain control of the city swiftly. Burning was designed to terrorise and, thus, reduce resistance as civilians were afraid to leave their homes.<sup>2058</sup> Terror was also created and control gained by destroying the normal neighbourhood manifestations of law, order and protection such as police stations. To this end, the AFRC/RUF fighters who first entered the city were ordered by Gullit to burn down all police stations.<sup>2059</sup> Terror was maximised by combining burnings with the commission of other crimes such as looting and also by choosing victims apparently at random, which "randomness" enhanced the terror induced.<sup>2060</sup> [REDACTED]

[REDACTED]<sup>2061</sup>

736. When ECOMOG started to put pressure on the rebel's grip on the city, Bockarie ordered an intensification of the violence. Gullit and other commanders in Freetown were instructed to "make themselves fearful," "kill all the civilians," "burn all the houses," and "chase [the civilians] into the sea."<sup>2062</sup>

<sup>2052</sup> TF1-334 testified that in around March/April 1998 in Jagbwema Fiamma houses were burnt down and heads displayed on sticks by RUF and AFRC as a warning to others (TT, 18 April 2008, pp. 8001-03). See also Exh. P-105: location no. 6 is Jagbwema Fiamma (TF1-334, TT, 18 April 2008, p. 8037).

<sup>2053</sup> TF1-334, TT, 18 April 2008, pp. 7988-92, 8038. See also Exh. P-105: location no. 9 is Yengema.

<sup>2054</sup> TF1-375, TT, 23 June 2008, pp. 12518-20.

<sup>2055</sup> TF1-189 testified that the village of Kongofinja in Kono District was subjected to daily attacks for a period in March 1998. During such attacks, the community centre and two houses were burned by men describing themselves as RUF and Junta, Sankoh rebels and Charles Taylor rebels (TT, 17 September 2008, [REDACTED] 16497 (Open), 16500-01 (Open), 16504-05 (Open) and [REDACTED]).

<sup>2056</sup> Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18886-87. See also TF1-459, TT, 25 September 2008, pp. 17201-02. Motema aka Mortema was attacked as part of an order to make the area fearful which order included burning houses down (TF1-375, 23 June 2008, pp. 12509-11).

<sup>2057</sup> TF1-358, TT, 19 November 2008, p. 20632. See also TF1-375, TT, 24 June 2008, pp. 12606-07: this witness saw burning in Freetown from Yams farm.

<sup>2058</sup> TF1-358, TT, 19 November 2008, p. 20633. See also Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005, p. 18766-68. See further TF1-360, TT, 6 February 2008, p. 3232.

<sup>2059</sup> TF1-334, TT, 22 April 2008, p. 8270. See also [REDACTED] & Exh. P-310, para. 27.

<sup>2060</sup> TF1-334, TT, 23 April 2008, pp. 8349-50. See further Exh. P-328, p. 23000.

<sup>2061</sup> [REDACTED]

<sup>2062</sup> TF1-275, TT, 22 February 2008, p. 4561 as corrected at [REDACTED] (emphasis added).

737. But, as ECOMOG squeezed harder, the order came from Bockarie to “burn the fucking place” down.<sup>2063</sup> At around this point, Gullit ordered his commanders to start distributing petrol to the troops.<sup>2064</sup> Thereafter, the fighters “started withdrawing and as [they] were withdrawing [they] were burning.”<sup>2065</sup> On hearing a BBC radio report about the atrocities being committed as the fighters left Freetown including amputations, killing and burning, Bockarie said “Well, they have not seen anything yet.”<sup>2066</sup>

### Waterloo

738. Waterloo was attacked for the first time around 22 December 1998 when the rebels advancing towards Freetown, some speaking Liberian English, burnt houses, killed and looted.<sup>2067</sup> This burning caused many to flee to the bush, ensuring minimum resistance. Waterloo was burnt for a second time during the retreat.<sup>2068</sup>

<sup>2063</sup> TF1-584, TT, 19 June 2008, pp. 12281-82 & TF1-516, TT, 8 April 2008, p. 6935. See also TF1-585, TT, 8 September 2008, pp. 15725-26. This witness testified that Bockarie told Gullit “If any bush shake, fire should blaze,” meaning if “they heard gunshots from whatever angle they should fire towards that ... direction and ... kill many people ... and ... burn houses.” See further the following witnesses who testified about Bockarie’s reaction to ECOMOG pressure: TF1-274, TT, 3 December 2008, pp. 21592-93; TF1-360, TT, 6 February 2008, pp. 3234-35; TF1-568, TT, 15 September 2008, p. 16171; and TF1-334, TT, 23 April 2008, p. 8329: Mosquito ordered Gullit to burn strategic positions in Freetown and capture civilians.

<sup>2064</sup> TF1-334, TT, 23 April 2008, pp. 8330-31.

<sup>2065</sup> TF1-334, TT, 23 April 2008, p. 8331. See also TF1-360, TT, 6 February 2008, p. 3251: witness heard about the burning of houses by “juntas” over commercial radio and saw “Rambo [Red Goat] going along burning.” See further TF1-585, TT, 8 September 2008, p. 15729.

<sup>2066</sup> TF1-274, TT, 3 December 2008, p. 21600 & Exh. P-263.

<sup>2067</sup> TF1-143, TT, 5 May 2008, pp. 9025-26: this witness along with his group headed by O-Five and Gullit moved from Benguema to Waterloo Junction to take the highway to Freetown and saw members of his group burning houses and looting shops. See also TF1-279, TT, 1 October 2008, pp. 17766-72. Note TF1-279 testified that the burning occurred 2 days after 17 December 1998 (p. 17766). The attack occurred, however, on 22 December 1998. See Exh. P-308, para. 4: “On 22 December, a ... group of rebels ... attacked Waterloo ... The attack resulted in heavy casualties among civilians and the looting and destruction of property and sent thousands of people fleeing towards Freetown.” See also Exh. P-340A & B at p. 23589 confirming Waterloo was attacked on 22 December 1998 and that the leader of the rebels was Sam Bockarie. See further Exh. P-341 B, pp. 23590-91: there was a rebel attack on Waterloo around 3 a.m. on 22 December during which houses were burnt. The date of 19 December provided by TF1-279 is sufficiently close to 22 December for the purposes of the jurisprudence on this issue. See Section IX.A above about approximate timeframes.

<sup>2068</sup> TF1-279, TT, 3 October 2008, pp. 17801-04 and pp. 17807-08 & 17815. See also TF1-085, TT, 27 October 2008, pp. 19196-98: this witness saw houses on fire in Waterloo when she arrived there after walking from Allen Town. On arriving, she also saw rebels led by Five-Five killing and amputating civilians. [REDACTED]

### Tumbo

739. On about 23 December 1998 at around 3 a.m., RUF rebels and SLA soldiers entered Tumbo aka Tombo and started burning houses and killing.<sup>2069</sup> In Tumbo the following day, it was observed that houses and people had been burnt.<sup>2070</sup>

### Kissy and Eastern Freetown and the Fourah Bay

740. The AFRC/RUF force entered the city from the east. At Brewery in Wellington, the force split, one group taking the Old Road and the other the New Road, but each moving through Kissy to get to the centre of Freetown.<sup>2071</sup> This advancing force executed the order to burn police stations as in the early hours of 6 January 1999 Kissy Police station and then Eastern Police were burned.<sup>2072</sup> The force also burned civilian property.<sup>2073</sup>

741. Burning was not limited to the advance. During the second week of January, civilian houses on Guard Street were also burned by Captain Blood, one of the commanders assigned to Bazzy Kamara.<sup>2074</sup> Kissy Terminal was also set on fire on the orders of Bockarie with thick smoke spreading across the area.<sup>2075</sup>

742. The retreating forces also burned houses along the route from PWD junction to Shell Old Road going towards Fisher Lane, oftentimes with civilians inside.<sup>2076</sup> The group which arrived at Shell Old Road then burned vehicles parked there before moving on to

<sup>2069</sup> TF1-097, TT, 16 October 2008, pp. 18560 & 18563. TF1-097 states "Tombo" is in the Western Area (p. 18559). As recognised by this Chamber, the same location may be spelt differently (AFRC Judgement, para. 115).

<sup>2070</sup> TF1-097, TT, 16 October 2008, pp. 18564-68. See also [REDACTED]

<sup>2071</sup> TF1-334, TTs, 22 April 2008, pp. 8272-74, 23 April 2008, pp. 8420-24 & Exh. P-107. See also TF1-360, TT, 6 February 2008, pp. 3224-25.

<sup>2072</sup> TF1-334, TT, 22 April 2008, pp. 8274-75 & 8279. Kissy Police Station is marked as location no. 5 on Exh. P-108 (TF1-334, TT, 24 April 2008, p. 8439) and Eastern Police is marked as location no. 1 on Exh. P-107 (TF1-334, TT, 23 April 2008, p. 8423). See also [REDACTED]

<sup>2073</sup> See TF1-087, TT, 13 October 2008, p. 18136-37: witness saw rebels burn houses in Kissy. Also Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18768-69. TF1-083 did not see the men "dressed in combat" (p. 18766) set fire to the pharmacy but it was reported to him that it had "been burnt down." The incident occurred just after 6 January 1999. In light of TF1-087's evidence, the inference can be drawn that it was burnt by the men in combat.

<sup>2074</sup> TF1-334, TT, 22 April 2008, pp. 8298-99. [REDACTED]

<sup>2075</sup> TF1-360, TT, 6 February 2008, p. 3235. See also TF1-274, TT, 3 December 2008, pp. 21592-93. See further Exh. P-357A & B at 10:06-13:08 & pp. 23629-30.

<sup>2076</sup> TF1-334, TT, 23 April 2008, pp. 8343-44. PWD junction is location no. 7 on Exh. P-107 (TF1-334, TT, 23 April 2008, p. 8425). See also [REDACTED]

Crazy Yard.<sup>2077</sup> As the retreat continued, the need to terrorise intensified with Gullit ordering his men to launch two attacks from Kissy Mental Home on civilians as far back as Ferry Junction and also at “Low-Cost Housing.”<sup>2078</sup> Gullit told his men to amputate people and burn their houses as the people of Freetown were betraying them by welcoming and supporting ECOMOG. Two squads comprising TF1-334 and Changa Bulanga respectively executed Gullit’s orders and reported back to him on completion.<sup>2079</sup>

743. During the retreat, some of the rebels based temporarily at Kissy Mental Home.<sup>2080</sup> At this time rebels including Captain Blood went to TF1-097’s family member’s house on Falcon Street near the mental home, threatened to burn down the house then amputated both the witness and another family member. The house was burned down later that day with the relative burning to death in the fire.<sup>2081</sup> Other civilian houses near the mental home were also burned down by the rebels.<sup>2082</sup>
744. Civilians were told that the Kissy people would be taught a lesson and that the rebels would “turn Kissy into a desert.”<sup>2083</sup> After this threat was issued, the rebels “started burning the houses rampantly.”<sup>2084</sup> Several witnesses described rebels sprinkling petrol

<sup>2077</sup> TF1-334, TT, 23 April 2008, p. 8346. See also [REDACTED]

<sup>2078</sup> TF1-334, TT, 23 April 2008, pp. 8351-61: Low Cost Housing is in Kissy just after Kissy Mess Mess & [REDACTED]. Kissy Mental Home is location no. 6 on Exh. P-108 (TF1-334, TT, 24 April 2008, pp. 8439-40).

<sup>2079</sup> TF1-334, TT, 23 April 2008, pp. 8351-61.

<sup>2080</sup> TF1-097, TT, 17 October 2008, pp. 18581 (timeframe) & 18582 (rebels based at Crazy Yard).

<sup>2081</sup> TF1-097, TT, 17 October 2008, pp. 18585-96. See TF1-097, TT, 16 October 2008, p. 18569 for the house’s location. See also TF1-278 who testified about the burning of his own house on Falcon Street plus other surrounding houses in Kissy in January 1999 (TT, 30 January 2009, pp. 24006-11). TF1-278 does not identify who burned down his house. However, he states a group in soldier uniforms came to his house on a previous occasion and he could not leave his house because they were present everywhere (pp. 24003-04). The inference can be drawn that as rebels were present in the area and burning houses on Falcon Street such as the house of TF1-097, TF1-278’s house was also burned by rebels.

<sup>2082</sup> TF1-087, TT, 13 October 2008, pp. 18115 & 18118-19: TF1-087’s house on Thompson Street near Kissy mental home was burnt down in January 1999. Mr. Babah said rebels had burnt it down. See also TF1-278 who testified to seeing fire around Crazy Yard by the Methodist church (TT, 30 January 2009, p. 24005). See Exh. P290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18772-73: around 19<sup>th</sup> January 1999, rebels set fire to houses in the Thunder Hill area of Freetown.

<sup>2083</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20596. See also TF1-358, TT, 19 November 2008, pp. 20645-46: This witness observed the particular devastation suffered by the residents of Kissy. People “had to flee from their torched homes. Their homes were put on fire ... the younger people were able to escape and the older folks got burnt completely in the flames more especially from the Kissy end of town.”

<sup>2084</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20596. See also Exh. P-356A & B at 11:28-14:39 & pp. 23627-28.

on houses in Kissy including their own and burning them.<sup>2085</sup> Houses were also burnt on Taylor Street, at Saroula,<sup>2086</sup> [REDACTED]<sup>2087</sup> Blackhall Road,<sup>2088</sup> and along Kissy Road.<sup>2089</sup> Estimates of the destruction to private property and businesses in Kissy ranged from 30 to 65%.<sup>2090</sup>

745. Like Kissy, Fourah Bay is located in Eastern Freetown.<sup>2091</sup> On the withdrawal, in response to the “challenge” laid down by the people of Fourah Bay through the killing of an SLA, “a ... fighting force, including Gullit, Bazzy and Five-Five” and men from the RUF, SLA, STF, RDF and the Red Lion Battalion (which included fighters sent by the Accused<sup>2092</sup>) attacked Fourah Bay, killing civilians and burning houses.<sup>2093</sup> Houses were set on fire with people still inside and “[w]hen the fire was approaching them you [would] hear them shouting, screaming.”<sup>2094</sup> [REDACTED]  
[REDACTED]<sup>2095</sup>

#### State House

746. After State House was captured early on 6 January 1999, the rebels advanced towards the central prison on Pademba Road.<sup>2096</sup> En route, they burned down the CID

<sup>2085</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20595-96; Exh. P-210 (AFRC Transcript of TF1-098, 5 April 2005), pp. 20681 & 20686-87: TF1-098’s house on Younge Street in Kissy (p. 20681) was set on fire by rebels while he and his family were still inside; TF1-101, TT, 14 February 2008: this witness’ house located on Falcom (sic) Street in Kissy was set on fire (pp. 3913-15) in January 1999 (pp. 3902 & 3907) by rebels whose leaders were Sankoh and Koroma (p. 3901).

<sup>2086</sup> TF1-101, TT, 14 February 2008, p. 3917.

<sup>2087</sup> [REDACTED]

<sup>2088</sup> TF1-278, TT, 30 January 2009, pp. 24012-13: Livingston, an SLA, burnt a house on Blackhall Road. [REDACTED]

<sup>2089</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), p. 20436.

<sup>2090</sup> [REDACTED] Exh. P-328, p. 23002. See also TF1-360, TT, 6 February 2008, pp. 3232-33: the worst things happened in eastern Freetown - Kissy terminal and houses were on fire and people were falling out of burning buildings. See further Exh. P-355A & B at 00:40-06:15 & pp. 23625-26.

<sup>2091</sup> [REDACTED] See also Exh. P-107: “Fourah Bay” is location no. 8 (TF1-334, TT, 23 April 2008, p. 8425).

<sup>2092</sup> TF1-334, TT, 22 April 2008, pp. 8194-8203, 8282, 8295, 8298, 23 April 2008, p. 8320, 29 April 2008, pp. 8938-8939. See also TF1-375, TT, 24 June 2008, pp. 12565-12577: battalion included Liberians who came from Kailahun.

<sup>2093</sup> TF1-334, TT, 23 April 2008, pp. 8332-34. Fourah Bay was burned after the second retreat from State House.

<sup>2094</sup> TF1-334, TT, 23 April 2008, pp. 8332-34. See also [REDACTED]

<sup>2095</sup> [REDACTED]

<sup>2096</sup> TF1-334, TT, 22 April 2008, p. 8280. See also TF1-360, TT, 6 February 2008, pp. 3225-26.

Headquarters, a building located near State House.<sup>2097</sup> Burning and looting was also observed in this area around 8<sup>th</sup> January 1999.<sup>2098</sup> When it became clear that the AFRC/RUF force had “lost the battle,” Gullit said State House and the Vice-President’s office should be burned.<sup>2099</sup> Rebels were then observed burning the Vice-President’s office at Tower Hill and people’s houses down each roadside from State House along Parliament Road up to Berry Street toward College.<sup>2100</sup>

#### Pademba Road

747. Many homes and vehicles on Pademba Road and surrounding streets were burned by the rebels during the January invasion, a fact reported almost contemporaneously by individuals on the ground.<sup>2101</sup>

#### Kingtom

748. Around the second week of January 1999, during an attack on Kingtom led by Bazzy to repel encroaching ECOMOG forces, houses were burned, often with civilians inside.<sup>2102</sup> Civilians were deliberately targeted as “Gullit ... [said] ... it was the civilians who went and called on the ECOMOG forces to come and base there.”<sup>2103</sup>

#### Uppun

749. [REDACTED]  
[REDACTED]<sup>2104</sup> It can be inferred that AFRC/RUF fighters burned the houses in this area during the invasion. This inference can be drawn because burning was widespread and

<sup>2097</sup> TF1-334, TT, 22 April 2008, p. 8280. “CID Headquarter” is location no.3 on Exh. P-107 (TF1-334, TT, 23 April 2008, p. 8424). Gullit’s order to burn police stations is recalled (TF1-334, TT, 22 April 2008, p. 8270). See also [REDACTED].

<sup>2098</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20428-29. This witness observed these actions after he was captured and taken from Waterloo Street in the centre of Freetown to State House. Although the individuals perpetrating the burning and looting are not specifically identified, the only reasonable inference from the witness’ evidence is that the “they” refers to the “rebels.”

<sup>2099</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), p. 20435.

<sup>2100</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20435-36 & [REDACTED].

See also Exh. P-355B at p. 23626: In this report, RUF Field Commander Sam Bockarie is identified as the man issuing orders to the men in Freetown (p. 23265, para. 2) and it is “[t]he rebels [who] have been burning buildings” (p. 23266, para. 5).

<sup>2101</sup> [REDACTED]. See also Exh. P-351 A & B at 02:46-06:54 & pp. 23616-17. See further Exh. P-355A & B at 00:40-06:15 & p. 23626, p. 23265, para. 2 & p. 23266, para. 5.

<sup>2102</sup> TF1-334, TT, 22 April 2008, pp. 8294-97. This witness marked “Kingtom” as no.4 on Exh. P-108 (TT, 24 April 2008, p. 8439). See also [REDACTED].

<sup>2103</sup> TF1-334, TT, 22 April 2008, p. 8295.

<sup>2104</sup> [REDACTED].



part of the force's *modus operandi* during the invasion;<sup>2105</sup> [REDACTED]  
 [REDACTED]<sup>2106</sup> the AFRC/RUF force advanced through  
 Uppun on entry into Freetown; and rebels were present in the area during the  
 invasion.<sup>2107</sup>

### Wellington

750. On the advance, threats to burn down houses were issued by troops as they pushed  
 through Wellington.<sup>2108</sup> [REDACTED]  
 [REDACTED]<sup>2109</sup> As these  
 forces moved they "were burning along the way."<sup>2110</sup> One resident of Wellington  
 watched as "many houses," including one with a crippled man called Mr. Wilson inside,  
 were burned in her town by rebels she identified as RUF. These burnings took place at  
 the same time as people were being captured and also amputated. Witness TF1-026  
 was told by the rebels that she "should be there to see what was happening" and if she  
 attempted to escape, they would do the same to her.<sup>2111</sup> [REDACTED]  
 [REDACTED]<sup>2112</sup>

### Calaba Town

751. Around the third week in January 1999, while based temporarily at Allen Town, Gullit  
 ordered a team to go as far as Calaba Town and to burn down houses so that Freetown

<sup>2105</sup> Exh. P-310, para. 27 & Exh. P-328, p. 23002.

<sup>2106</sup> [REDACTED]

<sup>2107</sup> TF1-334, TTs, 23 April 2008, pp. 8328, 8335-39, 8422; 24 April 2008, pp. 8434-35; Exh. P-210 (AFRC Transcript of TF1-098, 5 April 2005), p. 20683-84.

<sup>2108</sup> TF1-085, TTs, 23 October 2008, pp. 19173-74 & 27 October 2008, pp. 19206-07. TF1-085 clarified that the rebels had visited her house in Wellington around 5 January 1999 when they threatened to burn her house down. That occasion was different to the one when she was abducted (TT, 27 October 2008, pp. 19192-94 & 19206-07).

<sup>2109</sup> [REDACTED]

<sup>2110</sup> TF1-334, TT, 23 April 2008, p. 8369. See also the corroborating testimony of TF1-029 who states that, after she was captured in Wellington on 22 January 1999, "from Wellington to Calaba Town" "the mixed group, the SLA and the RUF" burnt houses (Exh. P-206 (AFRC Transcript of TF1-029, 28 November 2005), pp. 19417-18.

<sup>2111</sup> TF1-026, TT, 14 February 2008, pp. 3843-46. This witness gives the date of her abduction as 6 January 1999. The remainder of her evidence, however, establishes that she was abducted later in January during the retreat from Freetown as she moved from Wellington to Calaba Town to Waterloo then to Makeni (pp. 3848, 3862, 3865). The witness' evidence regarding the date is sufficiently close for the purposes of the jurisprudence on this issue (see Section IX.A above regarding the sufficiency of approximate timeframes). See the similar testimony of TF1-085 who was captured by retreating forces in Wellington. As TF1-085 left Wellington to go to Allen Town, she observed "rebels" "burning down houses ... capturing people and amputating them" (TT, 23 October 2008, pp. 19173-78). See further TF1-210, TT, 30 October 2008, pp. 19623-24.

<sup>2112</sup> [REDACTED]

would become ungovernable.<sup>2113</sup> Around 200 fighters went “back to Calaba Town ... attacked the civilians” and “burnt down houses in Calaba Town.”<sup>2114</sup> Witness TF1-233 described an attack late in the invasion when an armed man with a goat horn “on his forehead ... to make [them] fear” him locked the witness and his family in a shack and set it on fire because they said they had no money.<sup>2115</sup>

#### Hastings, Grafton and Benguema

752. [REDACTED]  
[REDACTED].<sup>2116</sup> It can be inferred that AFRC/RUF fighters burned civilian property at these locations during the invasion. This inference can be drawn as burning was widespread during the invasion [REDACTED]  
[REDACTED].<sup>2117</sup> Further, both Hastings and Benguema were towns through which the AFRC/RUF force advanced and retreated,<sup>2118</sup> while Grafton was part of the route taken on the retreat.<sup>2119</sup> It is evident that the force’s *modus operandi* was to burn towns and villages it passed through, thus allowing the inference to be drawn.

#### Other locations in Freetown and the Western Area<sup>2120</sup>

753. The east of Freetown and the towns through which the force passed were particularly affected but destruction was widespread throughout the city and its environs.<sup>2121</sup> In Freetown, a substantial number of civilian houses were destroyed, as were government

<sup>2113</sup> TF1-334, TT, 23 April 2008, pp. 8361 & 8371. “Calaba Town” is location no.3 on Exh. P-109 (TF1-334, TT, 24 April 2008, p. 8440).

<sup>2114</sup> TF1-334, TT, 23 April 2008, pp. 8371-72. Various estimates were provided about the level of destruction caused by the AFRC/RUF alliance and/or Liberian fighters in Calaba Town. Estimates were provided in the following documents and by the following witnesses: [REDACTED]

[REDACTED]; and Exh. P-328, p. 23002. The consensus in the evidence is, though, that a considerable percentage of civilian buildings were burned.

<sup>2115</sup> TF1-233, TT, 1 October 2008, pp. 17674, 17677, 17685-86, 17689 & 17691-94. See also Exh. P-215 (AFRC Transcript of TF1-227, 8 April 2005), p. 20814: TF1-227 describes fleeing Calaba Town on 19<sup>th</sup> January 1999 as “the atrocity was coming towards Calaba Town” which included burning houses.

<sup>2116</sup> See [REDACTED]

<sup>2117</sup> [REDACTED]

For the widespread nature of the destruction see Exh. P-310, para. 27 & Exh. P-328, p. 23002.

<sup>2118</sup> For Hastings see TF1-334, TTs, 22 April 2008, pp. 8263-65, 8267-68 (advance) & 23 April 2008, p. 8376 (retreat). For Benguema, see TF1-143, TT, 5 May 2008, p. 9021; TF1-334, TTs, 22 April 2008, pp. 8242-52 & 23 April 2008, p. 8376-77.

<sup>2119</sup> TF1-334, TT, 23 April 2008, p. 8376.

<sup>2120</sup> Although these towns in Freetown and Western Area were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of burnings at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>2121</sup> [REDACTED]

[REDACTED]. See further Exh. P-355A & B at 00:40-06:15 & pp. 23625-6: eyewitnesses report that rebels in the city have set fire to many buildings.

buildings, churches, mosques, hospitals and police stations.<sup>2122</sup> On the outskirts, AFRC/RUF fighters burned houses in Allen town<sup>2123</sup> and burned Lumpa twice.<sup>2124</sup>

754. The burning campaign<sup>2125</sup> threatened by Bockarie and carried out by his forces effectively achieved his goals of punishing the government of Sierra Leone and civilians and making the international community take notice.<sup>2126</sup>

## **IX.D. COUNTS 2 & 3: MURDER**

### **COUNTS 2 & 3: APPLICABLE LAW**

755. In the AFRC Judgement this Trial Chamber in addition to the contextual elements of crimes against humanity, pursuant to Article 2 of the Statute and violations of common Article 3 and AP II, pursuant to Article 3 of the Statute, adopted the following constitutive elements for the crime of murder:

- i. The perpetrator by his acts or omission caused the death of a person or persons; and
- ii. The perpetrator had the intention to kill or to cause serious bodily harm in the reasonable knowledge that it would likely result in death.<sup>2127</sup>

### **COUNTS 2 & 3: EVIDENCE**

756. The evidence proves beyond reasonable doubt the Accused's guilt in respect of Counts 2 and 3 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>2128</sup>

<sup>2122</sup> TF1-334, TT, 22 April 2008, pp. 8270, 8293-94: Central Police Station and the station at Queen Elizabeth Quay, around Ross Road were burned. Central Police Station is location no.4 on Exh. P-107 (TF1-334, TT, 23 April 2008, p. 8424). See also Exh. P-310, para. 27. See further Exh. P-328, p. 23002.

<sup>2123</sup> TT1-334, TT, 23 April 2008, p. 8376.

<sup>2124</sup> TF1-279, TTs, 1 October 2008, pp. 17766-69 & 3 October 2008, pp. 17801-04. Lumpa is a town near Waterloo.

<sup>2125</sup> Exh. P-328, p. 23002: damage was not limited to property. Thousands of jobs were also lost.

<sup>2126</sup> TF1-274, TT, 3 December 2008, pp. 21600-01.

<sup>2127</sup> AFRC Trial Judgement, para. 688. Note also that in the RUF Trial Judgement, paras. 138 and 142, Trial Chamber I adopt a similar formulation, albeit with three constituent elements. In relation to the elements of the offence the following sources of law are relied upon: CDF Appeal Judgement, paras. 198 and 200; AFRC Trial Judgement, paras. 688 and 690; RUF Trial Judgement para. 140.

<sup>2128</sup> Indictment, paras. 9-13; Amended Case Summary, paras. 24; Pre-Trial Brief, paras. 32, 33, 40, 43, 44, 47, 75, 79, 82, 87, 89, 90, 96, 97, 98, 103, 110, 111.

## General

757. During the conflict in Sierra Leone massive numbers of civilians were unlawfully killed at the hands of the Indictment Perpetrators.<sup>2129</sup> These killings, an integral part of the campaign of terror which was waged throughout the conflict, occurred during armed attacks against villages, towns and cities, carried out by the Indictment Perpetrators subordinate to the Accused.<sup>2130</sup> The evidence outlined in this section addresses those killings committed in Kenema, Kono and Kailahun Districts as well as Freetown and the Western Area.<sup>2131</sup> However, in addition to the Districts specifically charged in the Indictment, civilians were killed during attacks on other villages, towns and districts throughout Sierra Leone.<sup>2132</sup> A prominent example is the May 1998 attack on Karina Town in Bombali District. As the home of President Kabbah, the stated aim of the attack on the Town was to shock the entire country and international community, though the main purpose was surely to instil fear within the population. Gullit ordered that Karina be burnt down, that “able-bodied civilians” be captured and others killed. Thus, upon Gullit’s lead, Karina was destroyed and the civilian population of the town suffered murders and executions on the pretext that they were “Kabbah’s people.”<sup>2133</sup>
758. The killing of civilians was one method, amongst the grotesque panoply of crimes charged, used by the RUF, and later AFRC/RUF to make areas “fearful.” Killings were

<sup>2129</sup> In addition to the wealth of evidence detailed in the sections below see also by way of example, Exh. D-19; Exh. P-305; Exh. P-306, para. 8.

<sup>2130</sup> See generally the evidence outlined in the following sections but note also various documentary evidence relaying the same, by way of example see: Exh. P-307, para. 36.

<sup>2131</sup> Indictment, paras. 9-13.

<sup>2132</sup> Thus the killings charged in the Indictment are merely exemplary of the widespread killing of civilians that marked the conflict. Other examples are provided by: TF1-360, TT, 5 February 2008, pp. 3094, 3098-3101, who testified that during “Operation Pay Yourself,” in Makeni in February 1998, the AFRC and RUF groups raped women, and when women refused they were killed, as were their husbands; TF1-360, TT, 6 February 2008, pp. 3194-3195; TF1-028 gave evidence about the following killings she witnessed in various locations after being captured by the Junta: (i) Killings in Karina Town in 1998 before the Freetown Invasion (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9154-56); (ii) death of elder brother at the hands of the Juntas (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9157-58); (iii) killed of brother in Mandaha in 1998 by Junta (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9179-81); (iv) killing of old man in Makiteh village in 1998 (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9185-87); (v) killing in Kortu by members of the Junta (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9187-88); (vi) in Sandar Makulo during 1998, an RUF commander order a boy shot for taking soap (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9190-92); (vii) in Port Loko area in 1998, elder’s sister’s son hacked to death by the junta (TTs, 6 May 2008, p. 9129 & 7 May 2008, pp. 9165-67). See also TF1-114, TT, 15 January 2008, pp. 1233-1234: killings were practiced by RUF and junta rebels against civilians in Makeni; Dufka, TT, 21 January 2008, p. 1810; Exh. P-309, Case #1 & Case #2; Exh. P-313 para. 30; P-314, para. 4 on p. 2; P-320, para. 3, p. 1; Exh. P-81: recorded that “Operation No Living Thing” had emerged since April 1998, example given of killing of 200 people in Yiffin, Koinadugu District.

deliberately used to induce fear, and thus either ensure the compliance of civilians in the area, and/or to rid locations of any unwanted civilian presence.

759. The unlawful killing of civilians was ordered by senior commanders and this tactic was endorsed by the Accused.<sup>2134</sup> Witnesses and sources provide evidence about instructions to carry out killings and to make areas “fearful” given by leaders including Foday Sankoh, Sam Bockarie, JPK, Issa Sesay, Alex Tamba Brima and Morris Kallon. Moreover, not only did senior commanders within the AFRC and RUF order that civilians be killed, they also participated in the killings, setting the example to their subordinates. An early example is Issa Sesay’s missions into Liberia in 1994 to kill civilians who he accused of colluding with ULIMO. [REDACTED]

[REDACTED]<sup>2135</sup> Another example is Sam Bockarie’s exemplar executions of civilians at a roundabout in Kailahun Town in 1998.<sup>2136</sup> The deliberate targeting of civilians is further borne out by the wealth of evidence detailing the killing of babies,<sup>2137</sup> children,<sup>2138</sup> women, including pregnant women,<sup>2139</sup> elderly persons,<sup>2140</sup> as well as other persons not engaged in combat, such as journalists and members of the church.<sup>2141</sup>

760. As discussed in other sections of the Brief, the use of unlawful killing as an instrument of terror began at the inception of the conflict, as RUF trainees at Camp Naama were quickly taught that non-compliance or attempted escape would result in execution,<sup>2142</sup> and that when trainees captured a village or town they should assemble the civilians, kill half of them and “tabay” the rest of them.<sup>2143</sup> Such brutal treatment was meted out to civilians - both forced recruits<sup>2144</sup> and other innocent civilians - by those NPFL<sup>2145</sup>

<sup>2134</sup> See the section on Taylor’s *Mens Rea* above.

<sup>2135</sup> [REDACTED]

<sup>2136</sup> See below in the Kailahun section.

<sup>2137</sup> See the example at para 762 below.

<sup>2138</sup> e.g. Exh. P-328, part 1, summary – p. 1.

<sup>2139</sup> e.g. Exh. P-309, Case #6; Exh. P-308, para. 19.

<sup>2140</sup> Exh. P-309, Case #6.

<sup>2141</sup> See paras. 805-835 below in the section on Freetown.

<sup>2142</sup> e.g. DCT-102, TT, 1 November 2010, p. 48369.

<sup>2143</sup> [REDACTED] See also DCT-172, TT, 5 July 2010, pp. 43601-02.

<sup>2144</sup> The practice of killing recruits who escaped from Camp Naama was repeated at the training bases established in Sierra Leone in the early years of the conflict. E.g. DCT-146, TT, 22 March 2010, pp. 37752, 37755, 37757.

<sup>2145</sup> DCT-292, TT, 2 June 2010, pp. 41882-84; in Pendembu in 1993, witness saw an NPFL fighter execute a woman.

and RUF fighters who crossed the border from Liberia into Sierra Leone in 1991<sup>2146</sup> and continued into 1992.<sup>2147</sup> [REDACTED]

[REDACTED]<sup>2148</sup> In November 1993, Foday Sankoh's girlfriend, Jande Goba, was brutally killed on his orders for allegedly passing information about RUF positions to a prominent member of the APC. Sam Bockarie and Issa Sesay poured boiling palm oil onto her pubic parts, resulting in her death.<sup>2149</sup> Not only was she killed in this horrific way, but between January and March 1993, 350 people were massacred because of similar suspicions.<sup>2150</sup> Foday Sankoh and his immediate subordinates thus sought to instil fear to maintain loyalty within rebel ranks and ensure compliance from civilians. Another notable example of the employment of killings as a means to instil terror was the attack on Sierra Rutile in 1995 during which not only was the mining company (and their personnel) deliberately targeted but so were civilians in the surrounding areas who were killed and their properties burnt.<sup>2151</sup> In the Indictment Period, the use of killings to terrify thereafter expanded as did the ambition of the RUF after they "joined hands" with the AFRC. The sections below outline the multiple instances of killings carried out as a mechanism to terrorise civilians in those areas charged in the Indictment.

761. In addition to the primary purpose of instilling fear, civilians were killed by the RUF and later the AFRC/RUF for a multitude of other secondary reasons. Civilians were targeted to attract the attention of the international community – a tactic which was regrettably successful. This tactic was specifically endorsed by the Accused<sup>2152</sup> and was utilised on repeated occasions during the conflict, including during the attacks on Sierra

<sup>2146</sup> e.g. [REDACTED]; DCT-306, TT, 13 April 2010, pp. 38849-51: on 13 April 1991, during the takeover of Kailahun town by the RUF, three people were shot dead; DCT-292, TTs, 1 June 2010, pp. 41742-43, 41749 & 2 June 2010, p. 41871: following the RUF incursion into Koindu in April 1991, he saw four dead bodies; DCT-146, TT, 1 April 2010, pp. 38559-61; TF1-337, TT, 5 March 2008, pp. 5299-304: when the RUF base was established in Quiva, Kailahun District, civilians were forced out of the area and some of the civilians in the area were killed by RUF or AFRC rebels with a gun. The next morning the witness saw dead bodies around the area.

<sup>2147</sup> DCT-172, TT, 5 July 2010, pp. 43650-53; TF1-532, TT, 3 April 2008, pp. 6512-13. Both witnesses testified that in 1992 Mongor went to Sandiaru (aka Sandialu) with his bodyguards and killed between 50 (TF1-532) to 200 (DCT-172) civilians; men, women, children, pregnant women.

<sup>2148</sup> [REDACTED]

<sup>2149</sup> [REDACTED]. Also corroborated by DCT-172, TT, 5 July 2010, pp. 43592-93; DCT-306, TT, 19 April 2010, pp. 39259-60; DCT-306, TT, 14 April 2010, p. 38918.

<sup>2150</sup> DCT-172, TT, 14 April 2010, pp. 38917-19; [REDACTED]

<sup>2151</sup> TF1-360, TT, 4 February 2008, pp. 3053-56; TF1-045, TT, 12 November 2008, pp. 20097-101.

<sup>2152</sup> See the section on Taylor's *Mens Rea* above. TF1-360, TT, 4 February 2008, pp. 3053-54.

Rutile in 1995,<sup>2153</sup> the attack on Karina in 1998,<sup>2154</sup> and most notorious of all during the Freetown Invasion.<sup>2155</sup> Civilians were also deliberately targeted by the RUF and later the AFRC/RUF as a means of revenge to be exacted for failing to support the RUF and AFRC/RUF movements, to prevent the spread of information to opposing forces, and to send a message to the opposing forces that, should they engage the RUF and AFRC/RUF, then they would meet the same fate.

762. Civilians were often killed in many brutal and grotesque ways throughout the conflict in Sierra Leone. One example is the account of a woman who witnessed RUF Captain Danger and CO Cut Hand bet 100,000 Leones on the sex of the child of a pregnant woman in Kono District. The rebels shot the woman dead, opened her belly, took out the baby, and shook it in the air. The baby cried and then died.<sup>2156</sup> The following sections recount numerous other killings carried out with utter barbarity; incidents like those of a mother who was forced to laugh as her baby was buried alive for crying.<sup>2157</sup> But as is further evidenced below, the barbarity did not end with the public nature of these killings as often the victims' bodies and body parts were "displayed" or used in various macabre manners - adding another aspect of terror to the killings. For example, TF1-064 was forced to carry a bag of decapitated heads, including those of her children.

### **Kenema District**

763. Between about 25 May 1997 and about 31 March 1998, the AFRC/RUF Junta engaged in a campaign of terror against the civilians of Kenema District, which included the killing of numerous civilians in various locations throughout Kenema District,<sup>2158</sup> in particular Kenema Town and Tongo Fields.<sup>2159</sup>

<sup>2153</sup> TF1-360, TT, 4 February 2008, pp. 3053-3056; TF1-045, TT, 12 November 2008, pp. 20097-101.

<sup>2154</sup> See para. 757 above.

<sup>2155</sup> See para. 705-735 above.

<sup>2156</sup> Exh. P-330, p. 23150. See also TF1-158, TT, 21 October 2008, pp. 18891-92.

<sup>2157</sup> TF1-085, TT, 27 October 2008, pp. 19196-19198 & TF1-085, TT, 23 October 2008, pp. 19186-19189.

<sup>2158</sup> In addition to the evidence of killings in Kenema Town and Tongo Fields, witnesses gave evidence about killings in other locations in Kenema District. For example, TF1-060 gave evidence about killings in Bumpe (1 mile from the Tongo Fields township) (TT, 29 September 2008, pp. 17516-17 and at pp. 17529-31); Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15050-51: evidence that the police received more than fifty reports about widespread looting and killing of innocent people from the town chief and head man of Dama, Koya and other villages.

<sup>2159</sup> Indictment, paras. 9-10.

## Kenema Town

764. Following the coup in May 1997, the Junta arrived and stationed themselves in Kenema Town.<sup>2160</sup> The Junta remained in the Town until they were forced to flee after the Intervention;<sup>2161</sup> the killing of civilians by the Junta continued throughout the Junta period. Civilians were killed on suspicion of being Kamajors or assisting or sympathizing with Kamajors. Civilians were also killed if they refused to comply with Junta rule, or if they otherwise incurred the wrath of Sam Bockarie whilst he was present in Kenema Town. At the time of the Intervention, the Junta killed indiscriminately in Kenema Town.<sup>2162</sup>
765. Killings committed by the Junta in Kenema Town were often committed in public and corpses or body parts remained on display in the streets for days after the killings. The Junta also targeted local leaders/ figureheads who commanded respect in the community. The commission of crimes in public and the targeting of community leaders was specifically mandated by those in the upper echelons of the Junta, including Sam Bockarie and served to exacerbate the atmosphere of terror amongst the civilian population of Kenema Town.
766. One of the most notorious examples of the killing of a community leader is the killing of BS Massaquoi, a former Cabinet Minister and Town Council Chairman or Chief in Kenema Town, at the time of the Intervention. Numerous witnesses testified about the killing of this leader and several others in Kenema Town<sup>2163</sup> and the incident was also documented in various international reports.<sup>2164</sup> In late January 1998 Bockarie arrested Massaquoi and several others on suspicion of being Kamajor collaborators. They were taken to the AFRC Secretariat in Kenema Town where they were tortured.<sup>2165</sup> Bockarie accused Massaquoi and the other detainees of assisting the Kamajors and threatened to kill them. The detainees were subsequently released following an investigation by the Kenema police. However, Bockarie was furious when he learnt of the release and had

<sup>2160</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), p. 14989.

<sup>2161</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), p. 14991.

<sup>2162</sup> TF1-590, TT, 16 June 2008, pp. 11917-18.

<sup>2163</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15016-34; TF1-571, TT, 9 May 2008, pp. 9403-05; TF1-590, TT, 17 June 2008, p. 12021; and P-178A (RUF Transcript of TF1-125, 12 May 2005), p. 15316, 15321, Exh. P-178A (RUF Transcript of TF1-125, 12 May 2005), pp. 15316-21; DCT-172, TT, 8 July 2010, pp. 44006-07: BS. Massaquoi was suspected of sending single barrel rounds to the Kamajors and so had been arrested and put in custody in Kenema and subsequently executed.

<sup>2164</sup> Exh. P-366, p. 22799, para. 3; Exh. P-78, pp. 9-10. See also DCT-102, TT, 4 November 2010, pp. 48785-86.

<sup>2165</sup> TF1-571, TT, 9 May 2008, pp. 9403-05.



them re-arrested.<sup>2166</sup> On the day the Junta pulled out of Kenema Town, Bockarie and others put B.S. Massaquoi into a vehicle threatened that “he was going to kill him. He was going to execute him.”<sup>2167</sup> Massaquoi was later shot by Bockarie.<sup>2168</sup> The corpses of BS Massaquoi, Andrew Quee and several others were seen at a stream named Lambaiya.<sup>2169</sup> Defence witness Issa Sesay confirmed that Bockarie was responsible for the killing of BS Massaquoi and some other people at the time of the Intervention.<sup>2170</sup>

767. Other civilians were also killed on suspicion of association or sympathy with Kamajors. In December 1997, the AFRC/RUF launched an attack on the people of Kenema Town.<sup>2171</sup> During this attack, the Junta terrorized civilians as they looted, harassed, killed and burnt down homes on the false pretexts that they were hiding Kamajors in their homes or in their pockets; that they were “Kamajor assistants” or that their homes belonged to Kamajors.<sup>2172</sup> The day after the start of the attack, TF1-122 saw the corpse of a large man dressed in “plain cloth” who was not a Kamajor, lying in Hangh Road, in Kenema Town. The Junta were dancing around the body singing that they had captured and killed the Kamajor boss.<sup>2173</sup> One of the fighters took his bayonet and removed the man’s intestines, pulling them across Hangh Road to function as a checkpoint – another NPFL practice mimicked by Taylor’s surrogate army in Sierra Leone.<sup>2174</sup> The checkpoint, and intestines, remained for three days.<sup>2175</sup>
768. Civilians in Kenema Town were killed on other occasions throughout the Junta’s rule in the District. For example, between May 1997 and February 1998 a group of RUF rebels marched a man, dressed in the working clothes of a farmer, through Maxwell Khobe Street in Kenema Town and shot him in his head and stomach. Bockarie stated that “he must finish all of them” and the RUF fighters were dancing and singing that

<sup>2166</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15016–34.

<sup>2167</sup> TF1-571, TT, 9 May 2008, p. 9406.

<sup>2168</sup> TF1-571, TT, 9 May 2008, p. 9489. Note at p. 9408 Justice Sebutinde asks Counsel who did the shooting and the reply is Bockarie’s securities, but the next day the witness is asked directly and testifies that Bockarie did it.

<sup>2169</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15016–34.

<sup>2170</sup> DCT-172, TT, 8 July 2010, pp. 44006–07. DCT-172 testified that he learnt this from Major Gua.

<sup>2171</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15007–16.

<sup>2172</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15007–16: the witness explained that his own house was broken into at night, his valuables taken and his wife molested. He also testified that his father’s compound in Tongo was burnt down.

<sup>2173</sup> Although the evidence indicates the man was a civilian.

<sup>2174</sup> TF1-532, TT, 31 March 2008, p. 6226; TF1-597, TT, 21 May 2008, p. 10420.

<sup>2175</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15016–18. Note at p. 15017 the witness stated that AFRC and RUF were in Kenema Town that evening but no Kamajors and at p. 15018 the witness testified that the man was dressed “modestly in plain clothes and... not dressed in Kamajor uniform at all.”

they had captured a Kamajor. Bockarie later ordered the RUF fighters to drag and dump the man's corpse in a hole.<sup>2176</sup> During the Junta period, the AFRC and RUF, including Bockarie and a man identified as "Akim" also attacked a house on Mambu Street, Kenema Town on the premise that Kamajors were inside. The house was looted and burnt. The police discovered behind the house the corpses of three people in civilian clothing who had been killed during the attack.<sup>2177</sup> Another example is Mrs Dowe's report to police that her husband was shot dead by AFRC and RUF in November 1997 when he tried to stop them attacking and looting their home in the Kenema Township.<sup>2178</sup>

769. Further, there are a number of instances where Sam Bockarie ordered the extrajudicial execution of civilians. For example, shortly after the arrival of the Junta in Kenema Town,<sup>2179</sup> a small group of alleged burglars were shot dead in public on the orders of Sam Bockarie by RUF and AFRC soldiers.<sup>2180</sup> The corpses the men were left on the road for the rest of the day.<sup>2181</sup> Later, in November 1997, the Kenema Town police investigated the theft of drugs from the ICRC warehouse. Bockarie advised that he was going to assist the investigation. Later that day, TF1-122 heard that Bockarie had captured and executed a man named Santos, the operator of the Kenema cinema, and another unknown man. That evening, TF1-122 found the corpses of the two men lying in front of his house. The corpses remained there for three days before Bockarie accompanied by his boys removed them.<sup>2182</sup> Another incident that occurred during the Junta period, was the killing of Mohamed Fityia, a business man, in Kenema Town. AFRC and RUF Juntas had threatened to loot Fityia's car; however, he persuaded those AFRC and RUF to let him keep the car if he assisted them by driving them during their looting mission. Fityia's participation in this looting mission was reported to Bockarie. TF1-517 then saw Bockarie shoot and kill Fityia.<sup>2183</sup> The fact that these civilians were allegedly involved in criminal behaviour does not negate the fact that these killings

<sup>2176</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15007–10; TF1-122 saw the man being marched and heard two gunshots. The witness followed him to the NIC building, where he saw Sam Bockarie brandishing a pistol in the air. The Witness saw the victim dying and stated that he later died.

<sup>2177</sup> Exh. P-174 (RUF Transcript of TF1-122, 7 July 2005), pp. 15135–37.

<sup>2178</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15010–12.

<sup>2179</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), p. 15002; Exh. P-178A (RUF Transcript of TF1-125, 12 May 2005), pp. 15313–16.

<sup>2180</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15002–07 & Exh. P-178A (RUF Transcript of TF1-125, 12 May 2005), pp. 15313–16. The burglars were called Bonnie Wailer, Sydney Cole and Mr Bangura.

<sup>2181</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15002–07.

<sup>2182</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15013–15.

<sup>2183</sup> TF1-571, TT, 9 May 2008, pp. 9409–12.

were unlawful. The public display of corpses in the streets of Kenema Town, ordered by Sam Bockarie, are further examples of the terrorization of the civilians in Kenema Town; the public killings and display of corpses were deliberate messages to civilians to comply with Junta rule and those who refused would pay the ultimate price.

### **Tongo Fields**

770. In about mid-1997, the Junta took control of nearby Tongo Fields from the CDF Kamajors and held that area until the Intervention.<sup>2184</sup> For three days after taking control the AFRC and RUF subjected the civilian population of Tongo Fields to a campaign of looting, harassment and killings.<sup>2185</sup> In the area surrounding Tongo Fields, the AFRC and RUF similarly carried out looting, burning of houses and killing of civilians.<sup>2186</sup> As one example, three civilians alleged to be Kamajors were killed by the AFRC/RUF. These three people were not Kamajors as no Kamajors remained in Tongo Fields at that time.<sup>2187</sup> During the Junta period, civilians from Tongo Fields and the surrounding area who were suspected of being Kamajors or of collaborating with or assisting Kamajors, were summarily executed.<sup>2188</sup>
771. Having taken control of Tongo Fields, the Junta began diamond mining operations in the area, including at Cyborg Pit.<sup>2189</sup> The AFRC and RUF supervising the civilians working at Cyborg Pit would regularly fire into the pit, killing the civilian workers; their corpses would then be brought to the top of the pit “oozing with blood,” in full

<sup>2184</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), p. 15055; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14915; TF1-060, TT, 29 September 2008, pp. 17511–13: Kamajors and SSD were in control of Tongo fields from May 25 to August 11, 1997; TF1-060, TT, 30 September 2008, p. 17608: Kamajors took over Tongo Fields around March 1998.

<sup>2185</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14914–20 and Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15055–56, Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15055–56 & Exh. P-174 (AFRC Transcript of TF1-122, 7 July 2005), p. 15159; TF1-060, TT, 29 September 2008, pp. 17516–17.

<sup>2186</sup> TF1-060, TT, 29 September 2008, pp. 17516–17, 17529–31: the witness saw the corpses of civilians in Bumpeh village, about a mile from Tongo township, and civilians reported to him that these civilians had been killed by RUF fighters, and that the chief Vandi Sei and a retired policeman, John Dakowah were also killed at Panguma.

<sup>2187</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 1498–20: this occurred in the house opposite his in Tongo Fields and he saw their corpses, which the civilians were left to dispose of when the AFRC/RUF left the scene.

<sup>2188</sup> TF1-532, TT, 31 March 2008, pp. 6210–12: several civilians were killed outside Kenema Town and towards Tongo Fields on the orders of Bockarie because they were suspected of passing information to the Kamajors.

<sup>2189</sup> TF1-060, TT, 29 September 2008, p. 17532: Cyborg pit was located about 400 yards from Tongo but within Tongo Fields.

view of the other civilian labourers.<sup>2190</sup> Similarly, at other pits in Tongo Fields, such as “Tokpombo One,” civilians were killed by firing into the pits.<sup>2191</sup> Civilians who failed to comply with orders given by the AFRC/RUF would also be beaten or killed by the armed guards, including SBUs. DCT-146 testified that the AFRC/RUF forced civilians to mine in Tongo Fields and that civilians who refused to mine, if they were unlucky, would be killed, and if lucky, beaten.<sup>2192</sup> In one instance, an armed AFRC/RUF rebel who was supervising civilian mining, shot and killed a civilian child who disobeyed an instruction to empty a bag of gravel.<sup>2193</sup> In another incident at Cyborg Pit, an AFRC/RUF rebel placed a bag of gravel by the water to be washed but returned to discover that his bag had been taken. The rebel then said he was going to set an example by killing a civilian in exchange for the bag of gravel; the rebel then began firing his gun, and killed a civilian as promised.<sup>2194</sup> Civilians who were suspected of stealing diamonds would also be beaten,<sup>2195</sup> or killed.<sup>2196</sup> The AFRC/RUF also forced civilians to mine in dangerous conditions, and many civilians were killed during multiple cave-ins at Cyborg Pit.<sup>2197</sup> Outside of the times for “government mining,” the diamond pits of Tongo Fields became lethal “no go areas” for civilians.<sup>2198</sup> For example, when a report reached Bockarie that civilians were mining by the church in Pandembu,<sup>2199</sup> he sent child combatants there, who opened fire, killing three civilians.<sup>2200</sup> A similar incident occurred at Sandeyeima, in which two civilians were

<sup>2190</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14943–44: two or three corpses would be taken from the pit every day; the AFRC and RUF were responsible because they were in charge of the civilians at Cyborg Pit and it was the AFRC and RUF who had guns not the civilians.

<sup>2191</sup> TF1-060, TT, 29 September 2008, pp. 17515–17 (Note at pp. 17494, 17560, the witness explained that Lalehun is in Nyawa section and its headquarters town is in Lower Bambara Chiefdom, Kenema District; that the main name for that area is Tongo Fields; and that Sandeyeima, Pandembu and Tokpombo One and Two are in the Nyawa section).

<sup>2192</sup> DCT-146, TT, 23 March 2010, pp. 37871–73, esp. at p. 37873; see also TF1-045, TT, 12 November 2008, pp. 20143–44: the witness saw civilians being flogged and killed by armed guards at government mining sites, and civilians who mined under him would be flogged or beaten if they did not follow orders or refused to work.

<sup>2193</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14942: the witness could not say whether it was an AFRC or RUF who shot the civilian child, as he could not distinguish between them but both the AFRC and RUF were controlling the civilians of Tongo Field at this time.

<sup>2194</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14943: the witness saw this killing committed.

<sup>2195</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14940.

<sup>2196</sup> TF1-567, TT, 2 July 2008, p. 12887.

<sup>2197</sup> TF1-060, TT, 29 September 2008, pp. 17538–40.

<sup>2198</sup> DCT-068, TT, 11 March 2010, pp. 37143–44: miners were shot in the pits in Tongo Field, and if civilians without a pass were found in the mining area of Tongo Fields they would be shot by the AFRC/RUF Junta.

<sup>2199</sup> TF1-060, TT, 29 September 2008, p. 17536: Witness places Pandembu in Tongo Fields.

<sup>2200</sup> TF1-060, TT, 29 September 2008, pp. 17537–38.

killed,<sup>2201</sup> and at Wuima where three civilians were killed.<sup>2202</sup> Civilians found at these mining sites before or after official mining times would be beaten or killed.<sup>2203</sup>

### **Kono District**

772. Between about 1 February 1998 and about 31 January 2000, AFRC/RUF forces killed numerous civilians in Kono District.<sup>2204</sup> Terror and killings were sanctioned as a tactic by senior members of the AFRC/RUF including: Sam Bockarie who ordered Dennis Mingo to instruct his men to “set one or two examples on civilians so that will instil fear in the other civilians and they will not be leaking information to the ECOMOG soldiers” by either killing or amputating “some of their hands and to tell them to take their hands off the war”;<sup>2205</sup> and Issa Sesay, who en route to Kono, at Tobulu, issued the command “When you see me, I die. When I see you, you die,” which meant that the AFRC/RUF should kill any civilian they met because they feared civilians would provide information about their positions to the opposing forces.<sup>2206</sup>

### **Koidu/ Koidu Town**

773. After the Intervention, the AFRC/RUF retreated to Koidu Town, burning, looting and killing en route. When the AFRC/RUF arrived in the Town this pattern continued.<sup>2207</sup>

<sup>2201</sup> TF1-060, TT, 29 September 2008, p. 17538.

<sup>2202</sup> TF1-060, TT, 29 September 2008, p. 17538.

<sup>2203</sup> TF1-045, TT, 12 November 2008, pp. 20155–56.

<sup>2204</sup> Indictment, paras. 9, 11.

<sup>2205</sup> TF1-585, TT, 8 September 2008, pp. 15674–76 (quotes at pp. 15674–75): The witness heard over the SLBS radio station that rebels were killing civilians and cutting off hands around the Kono axis and after that Bockarie called Komba Gbundema and Superman over the RUF radio to confirm that these killings and amputations had occurred and Bockarie told Komba Gbundema and Superman that that was enough “because as long as the whole world had heard about the killings and the amputations let that be enough, let it stop there.” The witness heard that this operation was carried out along the Saama Bendugu area (phonetic spelling); see also TF1-585, TT, 8 September 2008, pp. 15678–79: during “Operation Spare No Soul” AFRC/RUF fighters killed many civilians in the Kono axis. The witness learnt of this from the radio operators, Alice Pyne and Ebony. Pyne told her “that they killed many civilians...she said anybody who saw them, that person was a dead person. And anybody they saw too, that person was a dead person.”

<sup>2206</sup>

 See also, TF1-065, TT, 24 September 2008, p. 17067.

<sup>2207</sup> TF1-201, TT, 31 October 2008, p. 19691: following an announcement that ECOMOG had captured Freetown in 1998, innocent people who had nothing to do with the war were killed by the juntas in Koidu Town, the witness was in Koidu Town at the time they had started killing innocent people; TF1-358, TT, 19 November 2008, pp. 20616–18; TF1-303, TT, 29 January 2009, pp. 23836–40. Note Judicially Noticed Fact AD which states the AFRC/RUF junta from power on or about 14 February 1998.

Civilians were burned to death inside scorched houses, reduced to “roasted corpses,”<sup>2208</sup> on the orders of Sam Bockarie and Morris Kallon. Kallon not only ordered but also participated in the burning of properties while civilians were inside.<sup>2209</sup> Houses which had allegedly harboured or supported the Kamajors were selected for burning and set ablaze with people still inside.<sup>2210</sup> Civilians were also summarily executed as the AFRC/RUF arrived in Koidu Town. For example, Isaac Mongor was present when, on the orders of Superman a group of about 12-13 civilians, which included men, women and children of 11-12 years old, were executed at Hill Station. These people were massacred because they were considered enemies, as they had come from the direction in which the Kamajors had retreated during the AFRC/RUF attack on the town.<sup>2211</sup>

774. As a result of JPK’s order,<sup>2212</sup> civilian men, women and children were captured and/or killed in Koidu Town, as well as elsewhere in Kono District.<sup>2213</sup> In one incident, Hassan Papa Bangura, and other AFRC/RUF members attacked Koidu Town and killed civilians, including a group of civilians at Yardo Road whom they shot dead. The bodies of these victims were displayed at various junctions to create fear and to deter other civilians from coming to or remaining in Koidu Town.<sup>2214</sup> Survivors testified about being rounded up by senior AFRC/RUF rebels for execution. For example, TF1-189 testified that on 12 March 1998 she and other civilians were captured and taken to Superman’s compound in Koidu Town, where they were gathered in a hall with other civilians and informed that they would be killed. The witness then saw a female civilian shot dead by one of the rebels; the witness managed to escape during the night.<sup>2215</sup>

<sup>2208</sup> TF1-532, TT, 31 March 2008, pp. 6217–19.

<sup>2209</sup> TF1-375, TT, 23 June 2008, p. 12502; [REDACTED].

<sup>2210</sup> TF1-375, TT, 23 June 2008, p. 12502: the witness participated in these killings and described them as having taken place after “Operation Pay Yourself” when he arrived in Kono District with RUF troops. The incident described occurred when under the leadership of Superman, RUF and AFRC took Koidu Town. The witness heard people screaming inside their houses and saw skulls and bones in the houses that they had burnt down.

<sup>2211</sup> TF1-532, TT, 31 March 2008, pp. 6215–17: Superman was promoted by Bockarie after he ordered these killings.

<sup>2212</sup> That Kono become a “No Go Zone” for civilians.

<sup>2213</sup> In addition to the specific incidents referred to in this paragraph, see also Exh. P-202 (AFRC Transcript of TF1-206, 28 June 2005), pp. 19666–69; Exh. P-366, entry for “March 1998.”

<sup>2214</sup> TF1-334, TT, 17 April 2008, pp. 7954–55, esp. at p. 7954. Yardo Road was in Koidu Town, near Opera Junction/ Opera; a cinema.

<sup>2215</sup> TF1-189, TT, 17 September 2008, pp. 16512–14. The witness was later recaptured.

775. In April 1998, the AFRC/RUF killed civilians in and around Koidu Town as the force retreated from the town.<sup>2216</sup> The AFRC/RUF rounded up civilians, sometimes under the guise that they were ECOMOG, and conducted mass executions. For example, some 101 civilian men were executed at Igbaleh, on Kamachende Street, on the orders of RUF Commander Major Rocky (a.k.a. Emmanuel Williams). After the execution of these men, Major Rocky ordered a group of SBUs to decapitate the men, an instruction which the SBUs carried out.<sup>2217</sup> TF1-015, the sole survivor of the mass execution, was taken back to the Sunna Mosque where he saw Major Rocky salute Boston Flomo aka “Rambo” and explain that he had killed 101 people except for the witness, who was a pastor.<sup>2218</sup>
776. In addition to these executions, the AFRC/RUF went on killing sprees in various locations in and around Koidu Town; killing innocent civilians on the pretext of their alleged support for the Kamajors. For example, in April 1998, the AFRC/RUF carried out an attack on Kissy Town, an area behind Koidu Town, because Kamajors were occupying that area.<sup>2219</sup> Everyone found in Kissy Town was killed, including civilian men, women and children, as well as Kamajors – no one was spared.<sup>2220</sup> Such killing sprees were also evidenced by witnesses who saw massive numbers of corpses on the streets of Koidu Town.<sup>2221</sup> The AFRC/RUF also killed civilians at random as they retreated from Koidu Town. In one incident, rebels shot dead a civilian man named Aiah Abu in Koidu Town, on the same day as the massacre at Igbaleh.<sup>2222</sup> There is also evidence about the continued commission of killings by the AFRC/RUF in the Koidu area into early May 1998.<sup>2223</sup>

<sup>2216</sup> In addition to the examples referred to in this paragraph see also: TF1-532, TT, 31 March 2008, pp. 6219–21: during 1998 but after the AFRC/RUF had been forced out of Koidu Town, Kissy Town was attacked by AFRC/RUF and men, women and children were killed; TF1-337, TT, 30 October 2008, pp. 19610–12: shortly after 12 April 1998 while the witness was on his way from Tombodu to Lebanon in Koidu Town, he lay down to rest next to someone he thought was a friend, only to find that he had laid down next to five male corpses in civilian clothing.

<sup>2217</sup> TF1-015, TT, 8 January 2008, pp. 690–700: witnessed these executions.

<sup>2218</sup> TF1-015, TT, 8 January 2008, pp. 700–703.

<sup>2219</sup> TF1-532, TT, 31 March 2008, p. 6219: Kissy Town is behind Koidu Town on the road leading to the Guinean border. The attack was carried out from Superman Ground.

<sup>2220</sup> TF1-532, TT, 31 March 2008, pp. 6219–21: the witness was only able to say that “many” were killed.

<sup>2221</sup> TF1-015, TT, 8 January 2008, p. 693 and p. 718: the witness saw more than 50 corpses of men, women and children, including young babies on the way to Igbaleh, Kamachende Street, Koidu Town.

<sup>2222</sup> TF1-015, TT, 8 January 2008, pp. 688–89: this incident occurred toward the Sunna Mosque, which was in Koidu Town. Aiah Abu was shot and the witness saw him die.

<sup>2223</sup> e.g. [REDACTED]; Exh. P-78, p. 12.

777. After the AFRC/RUF's second, successful attempt to re-take Koidu Town in late 1998, civilians in Koidu Town were killed; many by being burnt to death inside their houses as a punishment for allegedly supporting the Kamajors.<sup>2224</sup> The AFRC/RUF also killed civilians including children during the attack to recapture Koidu Town in December 1998.<sup>2225</sup>
778. After the successful late 1998 offensive, the Junta thereafter maintained control of Koidu Town with a resumption of mining in and around the town. Many civilians were killed in the context of this forced diamond mining.<sup>2226</sup> There were constant reports sent through Superman to Bockarie, filed by both civilians and IDUs, regarding the killing of civilians by Morris Kallon for refusing to comply with his orders in relation to diamond mining.<sup>2227</sup>

### **Tombodu or Tumbodu**

779. Battalion Commander Mohamed Savage led the successful AFRC/RUF attack on Tombodu in April 1998.<sup>2228</sup> During this attack, civilians were subjected to an array of atrocities including killings and amputations.<sup>2229</sup> TF1-334 testified that during the initial attack and capture of Tombodu, the witness, Bomb-Blast, Savage and RUF fighters entered Tombodu and pretended to civilians that they were government forces; having gained the civilians' trust the fighters opened fire—killing more than twenty civilians.<sup>2230</sup> Witnesses hiding in the hills near Tombodu during the attack returned to find civilian corpses.<sup>2231</sup> The presence of civilian corpses in the streets of Tombodu generated fear in those civilians who returned to the town; for example, TF1-197 told

<sup>2224</sup> TF1-375, TT, 23 June 2008, pp. 12502-05.

<sup>2225</sup> Exh. P-196 (RUF Transcript of TF1-077, 20 July 2004), p. 18629: TF1-077 testified that he and his family were in Koidu Town when he discovered many corpses including those of three children, one of whom was his own. See also TF1-278, TT, 2 July 2008, p. 12917.

<sup>2226</sup> See also the section on Enslavement/ Forced Labour below in relation to Kono.

<sup>2227</sup> TF1-275, TT, 21 February 2008, pp. 4514–15, at p. 4513 it is established that the witness is referring to reports made during the time the witness was stationed in Koidu Town, between January to September 1998.

<sup>2228</sup> See TF1-216, TT, 28 October 2008, pp. 19340-43; TF1-210, TT, 30 October 2008, pp. 19670.

<sup>2229</sup> TF1-334, TT, 18 April 2008, pp. 7992–94; TF1-375, TT, 23 June 2008, pp. 12514–15; TF1-337, TT, 5 March 2008, pp. 5311–13: this witness testified that when he was at the Joint Security Office in Koakyima he learnt that after the AFRC/RUF withdrawal from Freetown in February 1998 killings and amputations of civilians were carried out in Tombodu by the AFRC/RUF. See also:

<sup>2230</sup> TF1-334, TT, 18 April 2008, pp. 7992–94.

<sup>2231</sup> TF1-197, TT, 16 October 2008, pp. 18466–69: the witness returned to see two corpses in civilian clothing, one of whom he recognized as Maraka man. Although the witness did not see the killing of these two civilians, it is submitted that the only reasonable inference is that these civilians were killed during the AFRC/RUF attack on Tombodu.



the court that when he saw the two corpses he thought he “was a dead man standing.”<sup>2232</sup> Some civilians whom the Junta amputated during the attack died as a result of these mutilations.<sup>2233</sup>

780. Savage was not removed from command in Tombodu as a result of these atrocities committed under his command, but rather kept there as commander. Under his stewardship, the killing of civilians in Tombodu continued,<sup>2234</sup> including macabre killings and massacres he carried out personally.<sup>2235</sup> For example, within a month of Savage being based in Tombodu as battalion commander, Savage “displayed” 77/ 78 captured civilians; Savage put 15 of the captives in a house and burned the house down with the civilians trapped inside. Approximately 15 others were amputated, and the remaining civilians were decapitated by Savage and put in a pit.<sup>2236</sup> This pit became known as “Savage Pit” “because of the number of corpses and heads that were in there.”<sup>2237</sup>
781. Other ‘rebels,’ including Staff Alhaji, a member of the AFRC, also killed civilians during the period in which the AFRC/RUF were in control of Tombodu.<sup>2238</sup> In one

<sup>2232</sup> TF1-197, TT, 16 October 2008, pp. 18466–69, esp. at p. 18469.

<sup>2233</sup> TF1-532, TT, 31 March 2008, pp. 6219–21; TF1-337, TT, 30 October 2008, pp. 19610–12; 3 days after 12 April 1998 the witness was shown two amputated corpses on his way from Tombodu to Lebanon in Koidu Town.

<sup>2234</sup> See generally, TF1-532, TT, 31 March 2008, pp. 6222–23.

<sup>2235</sup> TF1-532, TT, 31 March 2008, pp. 6221–23; TF1-577, TT, 9 June 2008, p. 11347, confirming that Savage was responsible for massacres in Tombodu and that this was widely known amongst the RUF; TF1-375, TT, 23 June 2008, pp. 12514–15; TF1-360, TT, 5 February 2008, pp. 3157–59; the witness testified that whilst he was stationed at Superman Ground he received reports that Savage was responsible for the killing of over 30 civilians in the town of Tombodu as well as the killing of civilians in the villages around Tombodu; and TF1-275, TT, 21 February 2008, pp. 4511–13: witness was informed that Savage had killed a lot of civilians in Tombodu, Superman later sent a message to Bockarie about the incident; TF1-263, TT, 6 October 2008, pp. 17945–46: witness heard that Savage was responsible for the killing of civilians in Tombodu and that there was a pit where civilians were killed and dumped; the witness saw the pit the next morning and saw decomposing corpses floating in it; and Exh. P-199A (RUF Transcript of TF1-304, 12 January 2005), pp. 18910–13 and pp. 18915–17 witness returned to Tombodu on 19 February 1999 and saw a huge pit close to the main road near the bridge filled with decapitated human heads, skeletons & bones, called Savage Pit; he saw a house up a hill which had an inscription with “Captain Savage” and “6,000 people more will die”; there was another house on Yusufuya Road which had human skulls and bones in every room; the rebels told him that Savage and Staff Alhaji locked all those people in the house and set it on fire.

<sup>2236</sup> TF1-334, TT, 18 April 2008, pp. 7994–98. The witness saw the 15 put in the house and the house set on fire. The civilians were prevented from escaping because soldiers surrounded the house, none of the civilians survived.

<sup>2237</sup> TF1-334, TT, 18 April 2008, pp. 7994–98, 31 March 2008, p. 6223: the witness stated that he saw “savage pit” and saw human bones and rotten flesh in it; TF1-263, TT, 6 October 2008, pp. 17945–46; TF1-532, TT, 31 March 2008, p. 6223 testified that when he went to Tombodu he saw “Savage Pit” and saw human bones and rotten flesh in it; TF1-197, TT, 16 October 2008, pp. 18490–18501: having been captured, threatened with death, and detained in a cell in Tombodu, the witness and other civilians were ordered by AFRC/RUF to throw three corpses dressed in civilian clothing into Savage Pit; Exh. P-199A (RUF Transcript of TF1-304, 12 January 2005), pp. 18910–13.

<sup>2238</sup> Exh. P-199A (RUF Transcript of TF1-304, 12 January 2005), pp. 18915–17.

incident, 53 civilian captives, including children and suckling mothers, were locked inside a house in Tombodu, which was then set on fire pursuant to the orders of Staff Alhaji. The doors and windows were sealed and armed soldiers surrounded the property, poised to shoot should the civilians attempt to escape, thus preventing the captives from escaping the burning house.<sup>2239</sup> In another incident, Staff Alhaji amputated both hands of four civilian men, including a man named Sorie, all of whom subsequently died as a result of the amputations.<sup>2240</sup> A rebel called “Capay” killed a Temne man who had been forced to carry a bag of decapitated heads from Foendor to Tombodu, putting the victim on a mortar and slicing his throat.<sup>2241</sup> There was also a wealth of evidence from other witnesses and documentary evidence about unlawful killings by AFRC/RUF in Tombodu during the Indictment Period.<sup>2242</sup>

782. Civilians were also killed in the context of forced diamond mining in Tombodu.<sup>2243</sup> Such killings were intended to strike fear amongst the civilians in Tombodu who were forced to mine for the AFRC/RUF, and thus make them more amenable to control. For example, the Town Chief, S.E. Sogbeh, was killed at Tombodu bridge. Sogbeh was unable to work because “little boys” operating as armed guards severely beat him, i.e., flogged him. S.E. Sogbeh was shot dead and the civilians were warned that “anybody who refused to do this work, this will be your end.” The captives who witnessed this atrocity were then forced to dispose of S.E. Sogbeh’s corpse.<sup>2244</sup>

783.

[REDACTED]  
[REDACTED]  
[REDACTED].<sup>2245</sup> The upper echelons of the AFRC/RUF

<sup>2239</sup> TF1-337, TT, 30 October 2008, pp. 19608–10: the witness was present during this incident and it occurred three days after 12 April 1998 (pp. 19593, 19599). TF1-216, TT, 28 October 2008, pp. 19337–40: the witness testified that he could hear the people inside screaming until the house was completely burnt down. See also Exh. P-14, a video clip, in which the witness refers to the killing of 52 people in a house in Tombodu after April 1998.

<sup>2240</sup> TF1-210, TT, 30 October 2008, pp. 19592–93 & pp. 19601–07 & p. 19618: the witness saw this happen, in April 1998 when he was captured and taken to Tombodu.

<sup>2241</sup> TF1-064, TT, 30 September 2008, pp. 17657–58: the witness saw this happen.

<sup>2242</sup> In addition to the more specific evidence detailed in this section about killings in Tombodu, witnesses also gave more general evidence about killings in Tombodu including: TF1-064, TT, 30 September 2008, pp. 17633–34; Exh. P-309, Case #16, p. 21536.

<sup>2243</sup> See also the Enslavement/ Forced labour section below in relation to Kono.

<sup>2244</sup> Exh. P-196 (RUF Transcript of TF1-077, 20 July 2004) pp. 18632–33: TF1-077 witnesses the killing.

<sup>2245</sup>

[REDACTED]

were certainly cognisant of Savage's brutality. Notably, Savage showed Superman the ashes of a house and explained to Superman that he, Savage, had cremated civilians there.<sup>2246</sup> Savage also showed Superman an old diamond pit where he had executed civilians, and in which there were human corpses, including those of children, young and old people, and body parts.<sup>2247</sup> Although there is evidence that Savage went mad, was relieved of his post in Tombodu and taken for treatment, this was temporary. Issa Sesay testified that Savage continued to work under Mani through October 1999 and, to his knowledge, Savage was never detained up through disarmament.<sup>2248</sup>

### **Koidu Geiya or Koidu Gieya**

784. Civilians, including children, were killed indiscriminately as the AFRC/RUF forces moved from Koidu Town to attack Koidu Gieya in May/ June 1998.<sup>2249</sup> After this attack civilian corpses were seen in Koidu Gieya.<sup>2250</sup>

### **Koidu Buma**

785. Civilians were killed by AFRC/RUF forces as they moved through Koidu Buma to attack Koidu Gieya<sup>2251</sup> in May/June 1998.<sup>2252</sup> RUF Rambo, who was the acting commander in Gandorhun, captured and hacked to death 15 civilians in Koidu Buma and the corpses of the civilians were displayed on the road to "create fear." TF1-334, Hassan Papa Bangura and Superman saw the corpses and learnt of these killings from RUF Rambo.<sup>2253</sup>

<sup>2246</sup> TF1-334, TT, 18 April 2008, pp. 8000-01: the witness saw Savage show Superman the ashes of the house and heard Savage's explanation. Superman told Savage that the burning was something which might be a crime against humanity; however, Savage and Superman later drank palm wine. Savage remained commander of Tombodu.

<sup>2247</sup> TF1-375, TT, 23 June 2008, pp. 12514-15: the witness was present when Savage showed the pit to Superman and saw the human remains in the pit. Superman did not take any action against Savage.

<sup>2248</sup> TF1-360, TT, 5 February 2008, pp. 3157-58; TF1-532, TT, 31 March 2008, p. 6222; [REDACTED]; DCT-172, TT, 25 August 2010, pp. 47128-30.

<sup>2249</sup> See the following testimony for the time frame and details about this attack TF1-334, TT, 21 April 2008, p. 8059 and TF1-584, TT, 18 June 2008, pp. 12198-205. At pp. 12201-02 the witness states that the attack on Koidu Gieya occurred in 1998, whilst the witness was at PC Ground; it occurred before the death of Sani Abacha. In this regard see Agreed Fact, para. 11: "In June 1998, SANI ABACHA, the leader of Nigeria, died and was succeeded by MAJOR-GENERAL ABDULSALAMI ABUBAKAR." See also TF1-375, TT, 23 June 2008, pp. 12518-20: the witness saw the corpses of civilians in Koidu Gieya.

<sup>2250</sup> TF1-375, TT, 23 June 2008, pp. 12518-20: the witness saw the corpses of civilians in Koidu Gieya.

<sup>2251</sup> TF1-334, TT, 18 April 2008, pp. 8011-12.

<sup>2252</sup> TF1-334, TT, 21 April 2008, p. 8059.

<sup>2253</sup> TF1-334, TT, 18 April 2008, pp. 8012-14: the witness was told by RUF Rambo that he had committed these killings and saw the corpses.

## Yengema

786. Civilians were killed by AFRC/RUF during the attack on Yengema in March/ April 1998.<sup>2254</sup> Consistent with JPK's instruction that Kono should be made a "no-go-zone" for civilians, civilians who were captured in Yengema were executed if they were deemed to be too weak to be of assistance to the AFRC/RUF. Corpses were also put on display in Yengema; human heads mounted on sticks at checkpoints, thereby increasing the terror aspect of the killings.<sup>2255</sup>
787. After the AFRC/RUF attack on Yengema, the Junta established a training base there. Abducted civilians who were forced to undergo military training at the base were often killed during training. Consistent with earlier RUF practice, forced recruits who attempted to escape from the Yengema training base were killed on the orders of Issa Sesay. Conscripts were also killed in training sessions during which live ammunition was used. These killings were reported to Issa Sesay.<sup>2256</sup> Civilians were also killed during food finding missions. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]<sup>2257</sup>

## Paema or Peyima

788. Civilians were killed during an attack on Paema or Peyima in February 1998. Rebel forces came to Paema initially in February 1998 announcing "Operation Pay Yourself" as they looted and killed civilians.<sup>2258</sup> They later returned to Paema explaining that their operation was "Operation No Living Thing" and announcing that "today there will not be any living thing."<sup>2259</sup> TF1-216's three children and his aunt, Mammy Isatu, who was unable to walk, were burnt inside their home in Paema after soldiers set the house on fire. Three other civilians, Ali Bangali, Sori and Pa Janneh, were also killed during the attack; the witness helped to bury them.<sup>2260</sup>

<sup>2254</sup> TF1-334, TT, 21 April 2008, p. 8058.

<sup>2255</sup> TF1-334, TT, 18 April 2008, pp. 7988-92.

<sup>2256</sup> [REDACTED]. See also: TF1-337, TT, 5 March 2008, pp. 5354-55; hearsay evidence that Issa Sesay killed recruits at the Yengema training base.

<sup>2257</sup> [REDACTED]

<sup>2258</sup> TF1-216, TT, 27 October 2008, p. 19318.

<sup>2259</sup> TF1-216, TT, 27 October 2008, pp. 19320 and 19322.

<sup>2260</sup> TF1-216, TTs, 27 October 2008, pp. 19321-26; 28 October 2008, pp. 19335-36.

## Bomboia Fuidu

789. Following the retreat from Freetown after the Intervention, the AFRC/RUF came to the village of Bomboa Fuidu and killed civilians.<sup>2261</sup> One victim, an old Limba woman, was killed by “rebels” on the village chief’s veranda in April 1998. During the incident, the rebels gathered approximately 20 civilians and forced them to watch the “rebels” sacrifice the old Limba woman. The “rebels” then slit the woman’s throat with a knife as she shouted “Aya Kanu, Aya Kanu, Aya Kanu,” meaning “Oh God, Oh God, Oh God.”<sup>2262</sup> At this time there were about 50 rebels in the village and the commander was nearby.<sup>2263</sup> On the same day, the “rebels” amputated the hands of a number of civilians and attempted to amputate the hand of TF1-206. A civilian, Pa Saiyo, resisted being amputated and was killed immediately by the “rebels.”<sup>2264</sup>

## Bumpe

790. Following the Intervention, civilians were killed in Bumpe<sup>2265</sup> during multiple attacks by the AFRC/RUF.<sup>2266</sup> These multiple attacks were undertaken with the full knowledge that there were no opposing forces in the village,<sup>2267</sup> but were carried out pursuant to JPK’s order that Kono should be a “no-go-zone” for civilians.<sup>2268</sup> The AFRC/RUF killed, therefore, for the specific purpose of spreading terror amongst the civilians of Bumpe Town and deterring them from remaining there. The AFRC/RUF took other action to instil fear and drive out those civilians they did not kill. For example, during these attacks members of the AFRC/RUF, including the Battalion Commander, Amara

<sup>2261</sup> TF1-337, TT, 5 March 2008, pp. 5311–13.

<sup>2262</sup> TF1-192, TT, 15 February 2008, pp. 3963–80 & Exh. P-202 (AFRC Transcript of TF1-206, 28 June 2005), pp. 1976–81: this incident occurs on or after 12 April 1998.

<sup>2263</sup> TF1-192, TT, 15 February 2008, p. 3970.

<sup>2264</sup> Exh. P-202 (AFRC Transcript of TF1-206, 28 June 2005), p. 19685.

<sup>2265</sup> TF1-584, TT, 18 June 2008, p. 12201: testified that a lot of civilians died in the attack on Bumpe Town; TF1-360, TT, 5 February 2008, p. 3101: women were abducted and their husbands killed in the towns and villages through which the rebels passed following the Intervention including Bumpe; TF1-360, TT, 5 February 2008, pp. 3149–52.

<sup>2266</sup> TF1-334, TT, 18 April 2008, p. 7984: the attacks on Bumpe occurred during March/April through to May/June 1998; see also TF1-360, TT, 2 February 2008, pp. 3152 and 3150: the attack occurred in 1998, although at pp. 3154–55 the witness clarifies that the operation took place before the death of Sani Abacha, the President of Nigeria, which he thought was in June/ July; TF1-375, TT, 23 June 2008, p. 12511, 12517.

<sup>2267</sup> TF1-375, TT, 23 June 2008, pp. 12511–14: TF1-375 participated in the second attack on Bumpe in 1998, there were no other forces in Bumpe, the rebels opened fire and killed civilians, who resisted leaving the town.

<sup>2268</sup> TF1-334, TT, 18 April 2008, p. 7986.

Kallay, put the decapitated heads of civilians at checkpoints to make the road “fearful.”<sup>2269</sup>

791. Like elsewhere, the AFRC/RUF set fire to houses in Bumpe, including some with civilians inside. As a result, Bumpe Town was almost completely burnt down. For those houses with civilians inside, the AFRC/RUF ensured these victims could not get away by locking the doors and shooting civilians who tried to escape.<sup>2270</sup>
792. In other incidents, the AFRC/RUF simply gathered civilians for execution. For example, one female victim, TF1-218, who was captured during one of the rebel attacks on Bumpe was then taken to a house along with other civilians, where the “rebels” subjected the captives to rape and sexual violence. At the house, the rebels began shooting at the captives, but TF1-218 managed to run away. When she returned to the house the following day, she saw the corpses of the civilians who had been shot. Inside the house she found her son who had been wounded but had survived by lying, covered in blood, beneath the corpses of the other civilians.<sup>2271</sup>

#### **Nimikoro or Njaima Nimikoro**

793. The AFRC/RUF attacked Nimikoro or Njaima Nimikoro before June 1998.<sup>2272</sup> During this attack, the AFRC/RUF successfully executed the instruction that civilians should be killed or amputated and sent to ECOMOG.<sup>2273</sup>
794. In around April 1998, the AFRC/RUF were based in Njaima Nimikoro and using Emmanuel Bull’s grandfather’s house “as a kind of headquarter.”<sup>2274</sup> At this time, the AFRC/RUF based in the town decided that they only required the young “active”

<sup>2269</sup> TF1-375, TT, 23 June 2008, pp. 12511–14; TF1-334, TT, 18 April 2008, pp. 7984–85: during the attack on Bumpe, the witness saw the battalion commander and his troops, put the decapitated heads of civilians on sticks to create fear.

<sup>2270</sup> TF1-334, TT, 18 April 2008, pp. 7985–87: the witness heard the screams of people inside the houses.

<sup>2271</sup> Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18876–79, 18885–87: there were many corpses. This occurred after Kabbah had been overthrown and when the “rebels” were in control of the area after retreating from Freetown.

<sup>2272</sup> TF1-360, TT, 5 February 2008, p. 3150, 3154–55: the attack occurred in 1998, before the death of Sani Abacha. See also Agreed Fact, para. 11: “In June 1998, SANI ABACHA, the leader of Nigeria, died and was succeeded by MAJOR-GENERAL ABDULSALAMI ABUBAKAR.”

<sup>2273</sup> TF1-532, TT, 31 March 2008, pp. 6223–24; TF1-360, TT, 2 February 2008, pp. 3151–52: “when we got to Nimikoro civilians died there, we amputated them, burned down the town.”

<sup>2274</sup> TF1-459, TT, 25 September 2008, pp. 17280–81 & Exh. P-183: Njaima Nimikoro is location “7.”

civilians and did not want the older civilians. Accordingly, the AFRC/RUF shot and killed seven “old Pa’s,” including one Pa Mansaray.<sup>2275</sup>

### **Mortema**<sup>2276</sup>

795. The AFRC/RUF under the command of Short Bai Bureh attacked Mortema, on the instructions of AFRC/RUF commanders to make the area “fearful” - which meant to kill civilians, to burn houses and to instil fear into ECOMOG or any opposing force/s.<sup>2277</sup> However, when the AFRC/RUF attacked, there were no opposing forces in Mortema, only civilians. Thus, during the “successful” attack on Mortema civilians were subjected to an array of AFRC/RUF atrocities, including but not limited to killings,<sup>2278</sup> in pursuit of the AFRC/RUF aim to make the area “fearful.” The “success” of this operation was reported by commander Short Bai Bureh to those in the upper echelons of AFRC/RUF command, specifically Dennis Mingo, aka Superman.<sup>2279</sup>
796. Several witnesses gave evidence about the killings carried out in and around the house of Samuel Bull. They explained that they returned to Motema because they believed that ECOMOG were stationed there so it would be safe.<sup>2280</sup> When they returned, many of the houses in the town had been burnt;<sup>2281</sup> so over 50 civilians sheltered in a habitable house belonging to Samuel Bull.<sup>2282</sup> However, when the rebels attacked Motema they found these witnesses and other civilians staying in this house. The rebels ordered the civilians to come out of the house and explained that they would be killed by their commander “Fixo Bio” because the civilians supported ECOMOG not the rebels. The rebels then shot and killed a number of civilians in Samuel Bull’s house, including Aiah and Aiah’s daughter.<sup>2283</sup> The rebels forced the civilians to queue and started shooting the civilians, breaking arms, legs and killing some people. “Fixo Bio,”

<sup>2275</sup> TF1-459, TT, 25 September 2008, pp. 17291–96: The witness heard the shots, heard the perpetrators talk about the killings (bragging that they had lined the old Pas up and killed them all with just two bullets) and never saw any of the old Pas again.

<sup>2276</sup> Also spelt “Motema” (see for example TF1-173’s evidence cited below).

<sup>2277</sup> TF1-375, TT, 23 June 2008, pp. 12510–11: As regards the date of the attack on Mortema, at pp. 12516–17 the witness estimates that the attack occurred three months after the Intervention.

<sup>2278</sup> TF1-375, TT, 23 June 2008, pp. 12509–11. See also TF1-065, TT, 24 September 2008, p. 17113 who dates the timing of the rebel attack on Motema as 12 June 1998.

<sup>2279</sup> TF1-375, TT, 23 June 2008, pp. 12510–11: this witness was in the radio room when Short Bai Bureh reported to Dennis Mingo about the “success” of the operation.

<sup>2280</sup> TF1-065, TT, 24 September 2008, p. 17112; and TF1-173, TT, 29 September 2008, p. 17448.

<sup>2281</sup> TF1-065, TT, 24 September 2008, p. 17114.

<sup>2282</sup> TF1-065, TT, 24 September 2008, p. 17112; TF1-173, TT, 29 September 2008, p. 17448.

<sup>2283</sup> TF1-173, TT, 29 September 2008, pp. 17448–56: The witness was also shot and caught on the lip by a rebel leaving the witness’ chin scarred. See also TF1-065 (TT, 24 September 2008, p. 17117).

the commander of this operation, was present as this took place.<sup>2284</sup> Numerous civilians were killed during the attack at Samuel Bull's house including: Aiah Sandy, Dorcos Sandy, Sia Sandy, Ma Gbojo, Komba Modeneh and Kadiatu Lebbie, and many more were killed during the attack on Motema.<sup>2285</sup> One rebel stated that their master, "Fixo Bio" had said that this was "Operation No Living Thing."<sup>2286</sup>

#### **Other locations in Kono District<sup>2287</sup>**

797. Witnesses gave evidence about the killing of civilians and use of terror between about 1 February 1998 and about 31 January 2000 in Kono District generally<sup>2288</sup> and also at the following locations in Kono District in addition to those areas specifically listed in the Indictment: Baima (or Baiama);<sup>2289</sup> Gold Town;<sup>2290</sup> Yekeyor;<sup>2291</sup> Kondeya<sup>2292</sup> and Mambona Town, Nimikoro Chiefdom.<sup>2293</sup> Civilians who had been abducted and/or enslaved by the AFRC/RUF were also subject to an array of mistreatment, including

<sup>2284</sup> TF1-173, TT, 29 September 2008, pp. 17458-64. See the similar account given by TF1-065 at TT, 24 September 2008, pp. 17113-26, 17131.

<sup>2285</sup> TF1-065, TT, 24 September 2008, pp. 17123-24 & also p. 17116 in relation to Ma Gbojo. The witness further explained that 17 civilians who had been sheltering at Samuel Bull's house were killed, that 2 civilians from the ECOMOG house were killed, that a woman was killed near the petrol station and a boy from the house opposite was also killed; TF1-173, TT, 29 September 2008, pp. 17458-64. TF1-065, TT, 24 September 2008, p. 17123; TF1-173, TT, 29 September 2008, p. 17465, the witness was with a man who was shot and killed by rebels in Motema.

<sup>2286</sup> TF1-065, TT, 29 September 2008, pp. 17122 and 17126: the witness heard the rebel say this.

<sup>2287</sup> Although these towns in Kono District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of killings at these locations should be considered for guilt of the Accused (see Section IX.A above for relevant submissions on specificity).

<sup>2288</sup> The following exhibits refer to killings which occurred in Kono District within the Indictment Period: Exh. P-309, Case #6; Exh. P-79.

<sup>2289</sup> TF1-197, TT, 16 October 2008, pp. 18502-05: the witness saw two corpses in civilian clothing following the AFRC/RUF attack on Baima in 1998; TF1-303, TT, 29 January 2009, pp. 23850-57: in the period following the Intervention, when the witness returned to Baiama Town she was captured by rebels. The witness's father was shot dead by a rebel and the witness and her mother were forced to laugh.

<sup>2290</sup> TF1-360, TT, 5 February 2008, pp. 3155-56: TF1-360 participated in an ambush of vehicles in Gold Town (between Masingbi and Sewafe along the Kono-Makeni highway), vehicles were burned and civilians killed.

<sup>2291</sup> TF1-263, TT, 6 October 2008, pp. 17891-94: The witness's uncle and sister were killed by rebels. Based on the evidence referred to above in the section on Count 1, Koidu was burned several weeks after the Intervention. Therefore, the killings in Yekeyor occurred in early to mid 1998. See also pp. 17900-02: the witness saw two decomposing male corpses in civilian clothing at a location between Yekeyor and Dewadu.

<sup>2292</sup> Exh. P-78, p. 12: records an incident in Kondeya in Kono District on 9 April 1998 when a group of about 50 rebels captured around 120 civilians, strangled one man, and threw a baby into a river.

<sup>2293</sup> RUF fighters killed at least 5 civilians in Mambona in April 1998. See TF1-065, TT, 24 September 2008, pp. 17093-108. TF1-065 also testified that a civilian called "SK" was knifed to death by the RUF rebels. TF1-065 saw the corpses of all five civilians. He also described the killing of a Kamajor called "Kai Sandy" whose head and private parts were placed on a stick. The killing of Sandy is referred to at para. 718 above in Section IX.C (Count 1). See also TF1-459, TT, 25 September 2008, pp. 17263-67.



killings at the camps established in the area surrounding Koidu Town, such as “Superman Ground,” “Guinea Highway” and “PC Ground.”<sup>2294</sup>

### **Kailahun District**

798. Between about 1 February 1998 and about 30 June 1998, the AFRC/RUF forces killed numerous civilians in Kailahun District.<sup>2295</sup>

### **Kailahun Town**

799. In February 1998, soon after the RUF were pushed out of Daru by ECOMOG, Sam Bockarie went to Kailahun Town where he ordered the arrest of 65 civilian men on the suspicion that they were Kamajor sympathizers. The 65 unarmed prisoners were thereafter executed on the orders of Sam Bockarie, who also participated in the executions. In the presence of the Accused’s subordinate, Varmuyan Sherif, Bockarie carried out the initial execution of a number of the detained men at the roundabout in Kailahun; having set the example, he then gave the instruction that the remaining men should be killed.<sup>2296</sup> Bockarie later passed through Kailahun Town where he sought confirmation from Augustine Gbao and “Fatoma” that his order had been carried out.<sup>2297</sup> The “Kailahun massacre,” as it came to be known, served as a very public means of making the civilian population in Kailahun Town, and Kailahun District generally, fearful and so ensuring their subservience to the AFRC/RUF cause. Witnesses described the particular terror suffered by persons who were forced to witness the killings, and persons who were forced to assist in the killings, including one man who was forced to kill his own father.<sup>2298</sup>
800. On the same day as the Kailahun Massacre, the AFRC/RUF otherwise sought to spread terror amongst the civilian population of Kailahun Town by displaying the decapitated

<sup>2294</sup> TF1-360, TT, 5 February 2008, pp. 3115-17: the witness was an AFRC/RUF who was present at the Camps in the Koidu area and observed first hand the treatment of civilians, including the killing of civilians. See also the section in Enslavement/ Forced Labour below in relation to Kono.

<sup>2295</sup> Indictment, paras. 9, 12.

<sup>2296</sup> TF1-406, TT, 9 January 2008, pp. 831-33; the witness was present during the killings; TF1-568, TT, 12 September 2008, pp. 16110-16 & 16120-26: the witness was present during the killings; TF1-045, TT, 13 November 2008, pp. 20177-85: TF1-045 participated in the killing of the remaining suspected Kamajors; [REDACTED]; TF1-406, TTs, 11 January 2008, pp. 1087-91 & 14 January 2008, pp. 1155-56; DCT-306, TT, 15 April 2010, pp. 39126-29; DCT-292, TT, 2 June 2010, pp. 41982-83; DCT-172, TT, 13 August 2010, pp. 46206-10; DCT-068, TT, 11 March 2010, pp. 37092-95; [REDACTED]; Exh. P-601B (RUF Transcript of DAG-048, 03 June 2008).

<sup>2297</sup> TF1-045, TT, 13 November 2008, pp. 20177-85.

<sup>2298</sup> DCT-306, TTs, 15 April 2010, pp. 39126-29 & 19 April 2010, pp. 39262-64. DCT-306 was present during the Kailahun massacre. DCT-306 testified that Mr. Morrison was forced to kill his own father.

heads of civilians, presumably those massacred that day, along the roadsides. Bockarie saw these heads as he drove through Kailahun Town.<sup>2299</sup> The inevitable effect of such barbaric displays was to spread fear.

### Other locations in Kailahun District<sup>2300</sup>

801. During the time period specified in the Indictment for Counts 2 and 3 in Kailahun District (i.e. between about 1 February 1998 and about 30 June 1998), killings occurred throughout the District.

802. The Indictment Perpetrators abducted civilians from Kailahun District and forcibly recruited and/or used them for forced labour, killing those civilians deemed too weak to be of use.<sup>2301</sup> Civilians forcibly recruited by the AFRC/RUF underwent military training at various training bases in Kailahun District. Some of these captives died as a result of the training.<sup>2302</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 2304 [REDACTED]

[REDACTED] 2305 [REDACTED]

[REDACTED] 2306

803. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 2307

<sup>2299</sup> TF1-045, TT, 13 November 2008, pp. 20183–84: the witness was present with Bockarie and saw these heads displayed. Also TT, 17 November 2008, p. 20458.

<sup>2300</sup> Although these locations in Kailahun District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of killings at these locations should be considered for guilt of the Accused (see Section IX.A above for relevant submissions on specificity).

<sup>2301</sup> Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15059-60; Exh. P-174 (RUF Transcript of TF1-122, 7 July 2005), p. 15162. See also Exh. P-516, p. 1.

TF1-263, TT, 6 October 2008, p. 17936.

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804. The killing of civilians in Kailahun District continued in circumstances similar to those outlined in the paragraphs above prior to and beyond the six month period specified in the Indictment.<sup>2308</sup> Thus the Indictment timeframe for killings in this District is merely representative of the killing of civilians that occurred in Kailahun District.

### Freetown and Western Areas

805. Between 21 December 1998 and 28 February 1999, AFRC/RUF forces killed an unknown number of civilians in Freetown and the surrounding Western Area.

806. [REDACTED]  
[REDACTED]  
[REDACTED].<sup>2309</sup> Dr. Stephen Ellis described the attack on Freetown as the most atrocious event of the entire war in Sierra Leone<sup>2310</sup> [REDACTED]  
[REDACTED].<sup>2311</sup>

807. The commission of atrocities against civilians was part of the strategic *modus operandi* for the AFRC/RUF fighters during the Freetown offensive. [REDACTED]  
[REDACTED]

[REDACTED].<sup>2312</sup> The AFRC/RUF fighters deliberately targeted police, politicians, Nigerians, members of the Church, and journalists. Five sources attest to the execution of police officers and their families (either at their home or at the police barracks)<sup>2313</sup> with estimates of more than 200 dead.<sup>2314</sup> [REDACTED]  
[REDACTED]

[REDACTED].<sup>2315</sup> Defence witness Issa Sesay adds that these acts stemmed from the discontent of rebels who had been apprehended by police in the past.<sup>2316</sup> The targeting of politicians led to the killing of the Solicitor General, the Resident Minister of the North, and an advisor to President Kabbah.<sup>2317</sup> Since Nigerians made up the core of ECOMOG, at least sixty-three Nigerian civilians were hunted down and murdered.<sup>2318</sup>

<sup>2308</sup> Exh. P-306, paras. 21 & 22.

<sup>2309</sup> [REDACTED]  
<sup>2310</sup> Ellis, TT, 16 January 2008, p. 1451.

<sup>2311</sup> [REDACTED]

<sup>2312</sup> [REDACTED]

<sup>2313</sup> [REDACTED]; Dufka, TT, 21 January 2008, pp. 1796-98, 1802; DCT-172, TT, 19 August 2010, p. 46682; Exh. P-310, p. 21596, para. 9.

<sup>2314</sup> Exh. P-310, p. 21596, para. 9.

<sup>2315</sup> [REDACTED]

<sup>2316</sup> DCT-172, TT, 19 August 2010, p. 46682.

<sup>2317</sup> Exh. P-310, p. 21599, para. 22.

<sup>2318</sup> Exh. P-328, p. 23001.

Members of the Church were not exempt from the violence, as proven by the murder of four of the Sisters of Charity.<sup>2319</sup> The rebels also killed three Sierra Leonean journalists, including radio journalist Jenner Cole, who was shot in the head in front of his fiancé.<sup>2320</sup> The AFRC/RUF had lists containing the names of journalists who had been critical of them in the past, as well as the names of other pro-democracy and human rights activists.<sup>2321</sup> “A new breed of killer is appearing,” one veteran journalist said, “one who knows no restraint and who is on the brink of denying himself and others the very notion of humanity.”<sup>2322</sup>

808. The examples of killings outlined in this section demonstrate the widespread terror inflicted upon the civilian population of Freetown and the Western Areas during the course of the invasion and retreat from Freetown. As outlined above, certain groups of civilians were specifically targeted for execution. However, “the vast majority of atrocities were committed by rebels who chose their victims apparently at random” and “the arbitrary nature of these attacks served to create an atmosphere of complete terror.”<sup>2323</sup> The atmosphere of terror was further heightened by the public commission of crimes, the public display of corpses,<sup>2324</sup> by the deliberate targeting of vulnerable persons<sup>2325</sup> and public sanctuaries,<sup>2326</sup> and by the use of games to choose who should live and who should die.

809. During the Indictment timeframe, killings were deliberately inflicted upon civilians with the knowledge of, and upon the instruction of, the most senior members of the AFRC/RUF. For example, prior to the Freetown Invasion, Gullit gave an order “from above” that when we get to Freetown we should burn down and do killings.”<sup>2327</sup> Later when the AFRC/RUF came under increasing pressure from ECOMOG soldiers, Sam Bockarie ordered his men to withdraw from the city and to burn the city and its inhabitants in their path,<sup>2328</sup> and thus as the AFRC/RUF retreated they went on a

<sup>2319</sup> Exh. P-328, p. 23001. See also the evidence in below in relation to the killing of nuns.

<sup>2320</sup> Exh. P-358A; Exh. P-358B, p. 23633.

<sup>2321</sup> Exh. P-328, p. 23001.

<sup>2322</sup> Exh. P-358A; Exh. P-358B, p. 23633.

<sup>2323</sup> Exh. P-328, p. 23000.

<sup>2324</sup> Witnesses have also documented cases of people trying to pick up the bodies of loved ones only to be ambushed by rebels who had positioned themselves around dead bodies. See Dufka, TT, 21 January 2008, pp. 1800-1801.

<sup>2325</sup> Women and children had been deliberately targeted with close-range gunfire. See Exh. P-308, p. 21476, para 19.

<sup>2326</sup> See Dufka, TT, 21 January 2008, pp. 1797-98.

<sup>2327</sup> TF1-334, TT, 22 April 2008, p. 8300.

<sup>2328</sup> TF1-585, TT, 08 September 2008, pp. 15725-15726.

rampage - killing and wounding civilians,<sup>2329</sup> leaving “amputees, corpses, and homes on fire.”<sup>2330</sup> As one source put it, “many of the attacks seemed to be well organized, and some were clearly planned and premeditated...operations to round up civilians for mutilation, rape, and execution are well documented, as is the existence of units specializing in the perpetration of particular forms of these atrocities.”<sup>2331</sup>

## Waterloo

810. Waterloo was embroiled in violence during both the invasion and retreat. As early as 22 December, a group of rebels attacked Waterloo, resulting in heavy casualties among civilians.<sup>2332</sup> A UN report described the sordid scene, where “women and children have been deliberately targeted with close-range gunfire and other civilians have been summarily executed.”<sup>2333</sup> Targeting women and children was a purposeful mechanism of terror, striking those most vulnerable.
811. The attack on Waterloo was also reported by BBC Focus on Africa, which described a group of fifty junta and rebel collaborators burning homes and killing civilians, counting among the dead the Secretary General for YWCA (Young Women’s Christian Association), Mr. Whenzle.<sup>2334</sup> The Agence France-Presse reported that some 60 people were killed in one day during an attack on Waterloo.<sup>2335</sup> TF1-028, a captive of the juntas and RUF, arrived in Waterloo as the rebels were killing civilians and burning homes. The witness saw corpses of men, women, and children lying on the street.<sup>2336</sup> The junta man accompanying the witness identified the commanders of this attack as Gullit, Five-Five, Woyoh, and FAT.<sup>2337</sup> Sometime after TF1-023 was captured by the AFRC on 22 January, some nuns were killed in Waterloo, though not in TF1-023’s presence.<sup>2338</sup>
812. As the invasion progressed, rebels moved between Wellington and Waterloo, capturing civilians who had not fled or been killed. TF1-026 was fifteen at the time she was captured in Wellington and brought to Waterloo, where rebels began shooting at fleeing

<sup>2329</sup> TF1-516, TT, 08 April 2008, pp. 6932, 6935-37.

<sup>2330</sup> TF1-274, TT, 03 December 2008, pp. 21598-21599.

<sup>2331</sup> Exh. P-328, p. 23000.

<sup>2332</sup> Exh. P-308, p. 21473, para 4.

<sup>2333</sup> Exh. P-308, p. 21476, para 19.

<sup>2334</sup> Exh. P-341A & Exh. P-341B, p. 23590.

<sup>2335</sup> Exh. P-430F, p. 1.

<sup>2336</sup> TF1-028, TT, 07 May 2008, pp. 9223-24.

<sup>2337</sup> TF1-028, TT, 07 May 2008, p. 9213.

<sup>2338</sup> TF1-023, TT, 22 October 2008, pp. 18950, 18956-57.

civilians, killing some of them.<sup>2339</sup> Another captive was Akiatu Tholley, who witnessed the leader of the rebel group, Five-Five, order his boys to dig a hole and bury a crying child alive. Amidst this ghastly scene, the rebels ordered the child's mother to put mud in the grave and laugh.<sup>2340</sup> This incident is demonstrative of the manner in which rebels terrorized civilians.

813. Violence in Waterloo was reawakened during the retreat from Freetown in February 1999. TF1-279 recalls seeing Mr. Kai reading his bible and a Limba man eating rice as they were shot and killed by Peleto. The perpetrator was identified to him by the foreboding observations that "Peleto is coming. Peleto is coming."<sup>2341</sup> An old woman, unable to run, was found by the witness upon his return in a pool of blood by her home.<sup>2342</sup>

### **Tumbo**

814. Ibrahim Wai describes a raid by RUF and SLA rebels on December 23<sup>rd</sup> that resulted in six deaths in the town of Tumbo.<sup>2343</sup> After being forced from his home in Tumbo by a rebel attack, the witness went into hiding and returned the next morning to find his town devastated. Among the corpses the witness recognized Pa Pratt's three children, who were lying beside Pratt's burned home. A thirty-year-old man named Joseph was also seen among the victims, shot after the rebels took money from his mother. Bai Usu's ten-year-old son was killed by a bullet that shattered his head.<sup>2344</sup> The terrorizing rebels would dispose of, that is, kill, anyone unable to follow their orders, regardless of age.

### **Wellington**

815. The town of Wellington, several miles outside Freetown, was host to some horrendous instances of rebel excesses. TF1-026 watched helplessly as nine RUF rebels shot her sister for crying. Afterwards, she was forced to watch a man die after his arm had been amputated, only to later see Mr. Wilson, a crippled teacher, burnt alive in his home.<sup>2345</sup> The rebels explained their rationale, telling the witness that if she attempted to escape,

<sup>2339</sup> TF1-026, TT, 14 February 2008, pp. 3862, 3864.

<sup>2340</sup> TF1-085, TT, 27 October 2008, pp. 19196-98 & TF1-085, TT, 23 October 2008, pp. 19186-89.

<sup>2341</sup> TF1-279, TT, 03 October 2008, pp. 17814-15, 17867-68, 17807.

<sup>2342</sup> TF1-279, TT, 03 October 2008, pp. 17867-68.

<sup>2343</sup> TF1-097, TTs, 16 October 2008, pp. 18560, 18563-67, 17 October 2008, pp. 18620-21. In TF1-097's testimony "Tumbo" is spelt "Tombo." The same location is meant and "Tombo" is in the Western Area. (p. 18559).

<sup>2344</sup> TF1-097, TT, 17 October 2008, pp. 18620-21.

<sup>2345</sup> TF1-026, TT, 14 February 2008, pp. 3843-46.

her fate would be similar to these victims – a clear use of acts of terror to control civilians.<sup>2346</sup> [REDACTED]

[REDACTED]<sup>2347</sup>

816.

[REDACTED]<sup>2348</sup> Rebels used a machete to hack to death a six-year old girl in her middle after she was caught trying to escape with her mother in Wellington. After this atrocious act, the rebels said “they wanted peace.”<sup>2349</sup> On January 19<sup>th</sup> rebels massacred twelve people at the Church of the Cross Star in Wellington, including a journalist and his three children. The rebels killed everyone in the church because two Nigerian missionaries were taking refuge there.<sup>2350</sup>

### Hastings

817. As the rebels passed through Hastings on January 3<sup>rd</sup>, three captured Nigerian ECOMOG soldiers were killed.<sup>2351</sup>

### State House

818. By the second week of January, rebels had re-taken State House, though they would struggle to hold it. A.B. Sesay recounts the lugubrious milieu, where “the only things I saw around the State House were corpses.”<sup>2352</sup> The witness saw more than twenty civilian corpses, killed for “overlooking” (i.e. disrespecting) the rebels.<sup>2353</sup> Five people were shot to death for refusing to join the rebels; Gullit’s boys killed more than thirty people for the same reason. Gullit was present as the rebels threw the bodies over a wall.<sup>2354</sup>

819. Any ECOMOG forces captured by the invading rebels near State House were brought to Gullit, who ordered them killed under the Cotton Tree. “Sam Bockarie would tell him we had no prison for ECOMOG,” TF1-360 remarked.<sup>2355</sup> This witness reported

<sup>2346</sup> TF1-026, TT, 14 February 2008, p. 3846.

<sup>2347</sup> [REDACTED]

<sup>2348</sup> [REDACTED]

<sup>2349</sup> TF1-331, TT, 22 October 2008, pp. 18993, 19009 – the witness saw this atrocity committed.

<sup>2350</sup> Dufka, TT, 21 January 2008, pp. 1796-98, 1800-03. This is corroborated by Exh. P-328, p. 23001.

<sup>2351</sup> TF1-334, TT, 22 April 2008, pp. 8264, 8267.

<sup>2352</sup> TF1-334, TT, 22 April 2008, pp. 8291-92.

<sup>2353</sup> TF1-334, TT, 22 April 2008, p. 8291.

<sup>2354</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20430-33 & 20455-57, 20485 & 20489 & Exh. P-222 (AFRC Transcript of TF1-024, 8 March 2005), p. 20497 – the witness saw these killings committed.

<sup>2355</sup> TF1-360, TT, 06 February 2008, p. 3230.

that there were more than ten or fifteen ECOMOG corpses in the area near Cotton Tree.<sup>2356</sup>

### **Tower Hill**

820. Tower Hill was declared a killing zone by Gullit. Pursuant to this direction, during the second week of January, Junior Lion reported to an insider witness that he had done some “heavy killings” in the Tower Hill area and had executed civilians whilst on patrol.<sup>2357</sup>

### **Fourah Bay**

821. As the rebels stormed central Freetown they branched into two forces, marching parallel along the boundaries of Fourah Bay until they reached Eastern Police.<sup>2358</sup> The rebels burned Eastern Police; at least two captured policemen were executed there.<sup>2359</sup> Two senior government ministers caught around Eastern Police were also killed and their corpses were displayed around Ferry Junction as the rebels retreated, a beacon of terror for all to see.<sup>2360</sup>

822. Following the retreat from State House, A.B. Sesay arrived in Fourah Bay with Gullit, Bazzy, Five-Five, the RUF, STF, RDF and Red Lion battalion members. The witness and his group forced people out of their homes, killed them and then burnt down some houses. Gullit said that this was in retaliation for the alleged killing of a soldier by civilians in Fourah Bay.<sup>2361</sup>

823. Killing also occurred in the context of games during which people were lined up and either killed or spared by their rebel executioners. Such games were utilized as a means to spread terror amongst the civilian victims and onlookers. [REDACTED]

[REDACTED] 2362 [REDACTED]  
[REDACTED]  
[REDACTED] 2363

<sup>2356</sup> TF1-360, TT, 06 February 2008, pp. 3230-34.

<sup>2357</sup> TF1-334, TT, 22 April 2008, p. 8297.

<sup>2358</sup> TF1-334, TT, 23 April 2008, pp. 8421-22.

<sup>2359</sup> TF1-334, TT, 22 April 2008, p. 8279 – Junior Lion killed the two police officers.

<sup>2360</sup> TF1-334, TT, 23 April 2008, pp. 8324, 8326.

<sup>2361</sup> TF1-334, TT, 23 April 2008, pp. 8333-34.

<sup>2362</sup> [REDACTED]

<sup>2363</sup> [REDACTED]



## Uppun

824. The Uppun area was a pivotal entry point during both the invasion and retreat from Freetown. Given the trail of burnings and killings that marked the rebel's route,<sup>2364</sup> it can be inferred that killings occurred in Uppun. [REDACTED]

[REDACTED] 2365

## Kissy

825. Killings occurred in large number throughout Kissy. Gullit ordered A.B. Sesay to go back as far as Ferry Junction and kill civilians.<sup>2366</sup> After the order, Juntas were killing civilians on the street and displaying corpses openly around Ferry Junction.<sup>2367</sup> AFRC/RUF troops also entered Kissy Market, where SBUs were used to kill civilians and burn homes.<sup>2368</sup> An insider who participated in the macabre scene remembered that "you would hear them screaming and they died."<sup>2369</sup> The very public commission of these acts added to the environment of fear, chaos, and terror. Ibrahim Wai's relative, Koroma Brima, was burned alive in a house set on fire by the rebels.<sup>2370</sup> Homes near the PWD areas of Kissy were burned as well; Gullit instructed A.B. Sesay to ensure no civilians come out until the homes were burned.<sup>2371</sup> Another witness confirms that Liberian male combatants were involved in the burning alive of a four-year-old girl and 87-year-old woman in Kissy on 20<sup>th</sup> January.<sup>2372</sup>

826. [REDACTED]

[REDACTED] 2373 [REDACTED]

[REDACTED] 2374

[REDACTED] 2375

<sup>2364</sup> TF1-334, TTs, 23 April 2008, pp. 8421-22 & 22 April 2008, p. 8277; TF1-360, TT, 06 February 2008, p. 3224.

<sup>2365</sup> [REDACTED]

<sup>2366</sup> TF1-334, TT, 23 April 2008, pp. 8351-54.

<sup>2367</sup> TF1-028, TT, 07 May 2008, pp. 9227-28; TF1-334, TT, 23 April 2008, p. 8326.

<sup>2368</sup> TF1-334, TT, 23 April 2008, p. 8375.

<sup>2369</sup> TF1-334, TT, 23 April 2008, pp. 8359-60.

<sup>2370</sup> TF1-097, TT, 17 October 2008, pp. 18582-83 & 18594-97.

<sup>2371</sup> TF1-334, TT, 23 April 2008, pp. 8343-44.

<sup>2372</sup> Dufka, TT, 21 January 2008, pp. 1796-98, 1800-03.

<sup>2373</sup> [REDACTED]

<sup>2374</sup> [REDACTED]

<sup>2375</sup> [REDACTED]

[REDACTED]  
[REDACTED]<sup>2376</sup>

827. As elsewhere, the AFRC/RUF in Kissy terrorized civilians in game style executions.

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]<sup>2377</sup> Mohamed Bah was among a group of civilians who a rebel commander named Tafaiko ordered into a queue on Rowe Street in Kissy; he told them seven would be shot.<sup>2378</sup>

828. Freetown's eastern suburb of Kissy felt the brunt of the rebel retreat, which was characterized by organized killings and burnings. Six sources attest to the massacre of civilians at Rogbalan Mosque.<sup>2379</sup> In the third week of January, Gullit ordered a team of 100 men to kill civilians at this mosque, who were allegedly hiding ECOMOG forces.<sup>2380</sup> Corinne Dufka interviewed ten witnesses to the massacre who reported that rebels came to the mosque every day to abduct girls, giving warning that a premeditated massacre was awaiting them.<sup>2381</sup> The rebels said they would not leave any soul to vote for the government of Tejan Kabbah.<sup>2382</sup> Among the dead, TF1-021 noticed his eldest son, who was shot in the chin.<sup>2383</sup> Inside the mosque, suckling mothers, adults, and children congregated and sought refuge in what they believed to be a place of sanctuary amidst the surrounding chaos. The fact that rebels purposefully broke this cultural norm demonstrates the extent of their deliberate infliction of terror. Amongst these RUF and SLA rebels who attacked Rogbalan Mosque was an insider who later learned from his uncle that two of his female cousins were victims of the massacre.<sup>2384</sup>

<sup>2376</sup> [REDACTED]

<sup>2377</sup> [REDACTED]

<sup>2378</sup> Exh. P-207 (AFRC Transcript of TF1-084, 06 April 2005), pp. 20597-98: the witness saw them shot. They all died.

<sup>2379</sup> Sources' estimates as to the number of civilians killed vary between 20 and 70 civilians. See: TF1-334, TT, 23 April 2008, pp. 8361-65; [REDACTED]

[REDACTED]; Exh. P-287 (AFRC Transcript of TF1-021, 15 April 2005), pp. 18735-44; Exh. P-289 (RUF Transcript of TF1-021, 15 July 2004), pp. 18726-29; Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18787-88 & 18767; Dufka, TT, 21 January 2008, pp. 1796-98, 1800-03; Dufka, TT, 22 January 2008, pp. 1839-40; [REDACTED]; Exh. P-328, p. 23001.

<sup>2380</sup> TF1-334, TT, 23 April 2008, pp. 8361-65.

<sup>2381</sup> Dufka, TT, 21 January 2008, pp. 1796-98, 1800-03.

<sup>2382</sup> Exh. P-289 (RUF Transcript of TF1-021, 15 July 2004), pp. 18726-29.

<sup>2383</sup> [REDACTED]; Exh. P-287 (AFRC Transcript of TF1-021, 15 April 2005), pp. 18735-44.

<sup>2384</sup> TF1-334, TT, 23 April 2008, pp. 8361-65.

829. TF1-083 wanted to escape this mayhem, travelling on a route from Thunder Hill to New Road. Along the way, the witness saw many corpses dressed in civilian clothing with bullet and machete wounds.<sup>2385</sup> When the witness was captured, the rebel commanding him said some of the civilians would be eaten and some killed. A civilian named Musa had four of his fingers cut off before being shot by the rebels and killed.<sup>2386</sup> Another witness, Mohamed Sesay, saw the shooting of one civilian and the stabbing of another at a SLA/Rebel checkpoint at PWD by Ferry Junction. He was told the perpetrators needed to offer a sacrifice.<sup>2387</sup> This same witness saw rebel Issa Conteh shoot dead an old woman and an old man as they were passing him outside a house in Kissy.<sup>2388</sup> Near Kissy Shell factory, a rebel commando and six other rebels, identified as RUF, AFRC/SLAs, and People's Army, killed two civilians who pleaded not to be amputated, shot six more civilians and then split the heads of five more civilians to save bullets.<sup>2389</sup> While rebels were stationed at Kissy Crazy Yard, Gullit ordered Foday Bah to execute four white nuns, who were shot in the presence of A.B. Sesay.<sup>2390</sup>

### **Calaba Town**

830. As rebels were displaced from Freetown in the third week of January, more than 200 combatants, including A.B. Sesay, arrived in Calaba Town. Among them were Bomb Blast, Rambo Red Goat, Med Bajehjeh and the SLAs, who were attacking civilians and burning homes in their path.<sup>2391</sup> A.B. Sesay remarked that "we all killed, let me tell you that. I myself, I killed. Other men killed."<sup>2392</sup> TF1-029 also recalls that a mixed group of SLA and RUF rebels killed civilians and burnt homes in Calaba Town.<sup>2393</sup> During the two-week period this witness stayed in Calaba Town, an ECOMOG soldier was killed and a nun was shot by an SLA commander named Colonel Tito.<sup>2394</sup>

831. The trail of corpses marking the aftermath of these atrocities was corroborated by multiple witnesses. The main street going towards Sayinoh Junction, was covered with

<sup>2385</sup> Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18779-86.

<sup>2386</sup> Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18779-86. Also witness' brother was killed on 16 January 1999, when rebels entered Kissy. Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), p. 18767.

<sup>2387</sup> TF1-101, TT, 14 February 2008, pp. 3902-05.

<sup>2388</sup> TF1-101, TT, 14 February 2008, pp. 3910-12.

<sup>2389</sup> TF1-101, TT, 14 February 2008, pp. 3900-01, 3912, 3917-22.

<sup>2390</sup> TF1-334, TT, 23 April 2008, pp. 8366-67.

<sup>2391</sup> TF1-334, TT, 23 April 2008, pp. 8371-73.

<sup>2392</sup> TF1-334, TT, 23 April 2008, pp. 8372-73.

<sup>2393</sup> Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19418-19.

<sup>2394</sup> Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19418-19.

the corpses of elderly civilian men, women and children a terrifying scene for Osman Jalloh, who thought he was going to be killed.<sup>2395</sup> At Thomas Place, Paul Conteh saw about forty corpses in plain civilian clothing.<sup>2396</sup> On the old and new road to Calaba Town Alpha Jalloh saw many corpses of men, women, and children.<sup>2397</sup> These corpses displayed openly on the road had the inevitable effect of terrorizing the civilian population.

832. Osman Jalloh also witnessed the killing of Otick, who had pleaded with a rebel not to cut off his hand. A rebel named Alpha Jet “chopped” Otick twice on the head with a cutlass; Otick died three days later.<sup>2398</sup> At Connaught Hospital the witness learned that his neighbour, Ya Sampa, had been “chopped” and killed as well.<sup>2399</sup>

### **Allen Town**

833. At the time of the retreat, upon arriving at Mammy Dumbuya’s Church in Allen Town after her capture, TF1-085 saw “rebels” raping and killing girls with bayonets. A rebel named Captain James later killed a women looking after the witness in a small hut near Allen Town.<sup>2400</sup> While the rebels were stationed in Allen Town awaiting instructions from Gullit they killed civilians they encountered in order to prevent ECOMOG from discovering their position.<sup>2401</sup> These killings spread fear in other civilians.

### **Benguema**

834. Prior to the invasion of Freetown and after SAJ Musa died, a woman was buried alive beside SAJ Musa as a sacrifice to assure the success of the attack. Commanders 05 and Gullit ordered the sacrifice, according to another commander named Kabila.<sup>2402</sup> The commission of killings continued throughout the retreat.<sup>2403</sup> Around February 1999,

<sup>2395</sup> TF1-233, TT, 1 October 2008, pp. 17698-02.

<sup>2396</sup> Exh. P-215 (AFRC Transcript of TF1-227, 8 April 2005) p. 20816.

<sup>2397</sup> Exh. P-210 (AFRC Transcript of TF1-098, 5 April 2005), pp. 20685-86. Also, the witness’ cousin was killed near Fataraman Street, Kissy, suffering wounds from an amputation. Exh. P-210 (AFRC Transcript of TF1-098, 5 April 2005), pp. 20688-92.

<sup>2398</sup> TF1-233, TT, 1 October 2008, pp. 17711-14 & 17717-18.

<sup>2399</sup> TF1-233, TT, 1 October 2008, p. 17726.

<sup>2400</sup> TF1-085, TTs, 23 October 2008, pp. 19182-85 and 27 October 2008, pp. 19195-96, 19204-05. Note TF1-085 clarified that the rebels had visited her house in Wellington around 5 January 1999, an occasion different to the one when she was abducted (TT, 27 October 2008, pp. 19192-94, 19206-07).

<sup>2401</sup> TF1-334, TT, 23 April 2008, p. 8373.

<sup>2402</sup> TF1-143, TT, 5 May 2008, p. 9025 – the witness, a child soldier, was told this by his boss Kabila.

<sup>2403</sup> While TF1-029 was held in Benguema, a SLA commander Colonel Coat Boot killed a lady. This happened between the time the witness was captured in Wellington, on January 22, 1999, and the day she left Benguema, on March 10, 1999. The witness also recalls that the mixed group of rebels killed young babies on the way to

while Paul Conteh was in Benguema, commander Gunboot raped and killed a sixteen or seventeen-year-old girl.<sup>2404</sup>

#### **Other locations in Freetown and Western Area<sup>2405</sup>**

835. Between 21 December 1998 and 28 February 1999, AFRC/RUF forces killed an unknown number of civilians in various locations throughout Freetown and the Western Area in addition to those areas specifically listed in the Indictment.<sup>2406</sup>

### **IX.E. COUNTS 4 – 6: SEXUAL VIOLENCE**

#### **COUNT 4 - RAPE: APPLICABLE LAW**

836. Trial Chamber II in the AFRC Judgement held that in addition to the contextual elements of crimes against humanity, pursuant to Article 2 of the Statute, the elements of the crime of rape are as follows:

- i. the non-consensual penetration, however slight, of the vagina or anus of the victim by the penis of the perpetrator, or by any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator; and
- ii. the intent to effect sexual penetration, and the knowledge that it occurs without the consent of the victim.<sup>2407</sup>

837. In relation to the first element, the *actus reus* of rape, the Prosecution relies upon the following footnoted sources of law.<sup>2408</sup> It is to be recalled that non-consent can be proven by the existence of coercive circumstances under which meaningful consent is not possible and that “in situations of armed conflict or detention, coercion is almost

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Benguema because they didn't want the noise. Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19422, 19424-25.

<sup>2404</sup> Exh. P-215 (AFRC Transcript of TF1-227, 11 April 2005), pp. 20838-40.

<sup>2405</sup> Although these locations in Freetown and Western Area were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of killings at these locations should be considered for guilt of the Accused (see Section IX.A above for relevant submissions on specificity).

<sup>2406</sup> The following witnesses gave evidence about killings in locations in Freetown and the Western Area, additional to locations specifically mentioned in the Indictment and within the specified time frame: Exh. P-353A and P-353B, p. 23620; TF1-334, TT, 22 April 2008, pp. 8295-96; Exh. P-215 (AFRC Transcript of TF1-227, 8 April 2005), p. 20818 and Exh. P-216A (Witness statement dated 20/06/2007), pp. 21030-31.

<sup>2407</sup> AFRC Trial Judgement, para 693.

<sup>2408</sup> AFRC Trial Judgement, paras. 693-694; RUF Trial Judgement, para. 149; *Gacumbitsi Appeal Judgement* para. 153; *Kunarac Appeal Judgement*, para. 457.

universal.”<sup>2409</sup> Non-consent can also be deemed in situations where persons are incapable of giving genuine consent owing to lack of capacity to consent.<sup>2410</sup> The first element also defines the types of invasion or “penetration, however slight” which constitute the offence of rape. It is submitted that the phrase “any other object” ought also to encompass “any other part of the body.” In this regard, Trial Chamber I in the RUF Trial Judgement, held that this aspect of the *actus reus* of rape includes penetration “with any object or any other part of the body”; stating that “[t]his part is meant to cover penetration with something other than a sexual organ which could include either other body parts or any other object.”<sup>2411</sup>

838. In relation to the second element, the *mens rea* of rape, knowledge of consent is proven if the prosecution establishes that the accused was aware, or had reason to be aware, of the coercive circumstances that undermined the possibility of genuine consent.<sup>2412</sup>
839. As regards relevant evidentiary considerations, it is to be recalled that circumstantial evidence and hearsay evidence can be used to demonstrate the *actus reus* of rape.”<sup>2413</sup> Further it is of note that in the specific context of the trials before the Special Court, Trial Chamber I, in the RUF Judgement, observed that: “numerous witnesses used the term “rape” without the Prosecution seeking to clarify the use of the term and the conduct entailed by it...we consider it an unfortunate reality in post-conflict Sierra Leone that “rape” is a commonly understood concept.”<sup>2414</sup> Trial Chamber I therefore took the view that “the use of the term “rape” by reliable witness describes acts of forced or non-consensual sexual penetration consistent with the *actus reus* of the offence of rape” adding that “[t]his approach may be reinforced by circumstantial evidence of violence or coercion.”<sup>2415</sup>

<sup>2409</sup> AFRC Trial Judgement, paras. 694-695. In this regard see also: *Kunarac* Appeal Judgement, para 127 and *Gacumbitsi* Appeal Judgement para. 151.

<sup>2410</sup> In this regard the following are relied upon: AFRC Trial Judgement, para. 694 (referring to children under 14); RUF Trial Judgement, para. 148 (referring to the young, persons under the influence of some substance, or suffering from an illness or disability). Notes also *The ICC Elements of Crimes & Rules of Procedure and Evidence*, (“*The ICC Elements of Crimes*”) Roy S. Lee 2001 ed.,p. 189 (referring to case where a child, elderly or disabled person or person on drugs is subject to a rape and unable to give genuine consent).

<sup>2411</sup> RUF Trial Judgement, para. 146 (emphasis added) and note also para. 145.

<sup>2412</sup> *Gacumbitsi* Appeal Judgement, para. 157.

<sup>2413</sup> AFRC Trial Judgement. para. 695.

<sup>2414</sup> RUF Trial Judgement, 2 March 2009, para. 1285.

<sup>2415</sup> *Ibid.*

## COUNT 5 – SEXUAL SLAVERY: APPLICABLE LAW

840. In the AFRC Judgement this Trial Chamber held that, in addition to the contextual elements of crimes against humanity, the following are the constitutive elements of sexual slavery:

- (i) the perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty;
- (ii) the perpetrator caused such person or persons to engage in one or more acts of a sexual nature;
- (iii) the perpetrator committed such conduct intending to engage in the act of sexual slavery or in the reasonable knowledge that it was likely to occur.<sup>2416</sup>

841. As regards the first and third elements the following footnoted sources of law are relied upon.<sup>2417</sup> The second element of the offence covers the sexual aspect of the crime. It is submitted that “acts of a sexual nature” are non-exhaustive and include not only rape but also any other form of sexual violence. This is consistent with the approach of this Trial Chamber, in the AFRC Judgement, in which the Trial Chamber analysed the phrase “any other form of sexual violence” in the context of crimes against humanity.<sup>2418</sup> The Trial Chamber specifically agreed that “sexual violence is broader than rape” and that the “prohibition embraces all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of coercion, threat of force or intimidation” and held that “any other form of sexual violence” is a “residual category” and “may encompass an unlimited number of acts.”<sup>2419</sup>

<sup>2416</sup> AFRC Trial Judgement, para. 708, footnote 1378, refers specifically to Rome Statute Elements of Crimes, Article 7(1)(g)-(2). Elements (i) and (ii) correspond with the respective elements of the crime in Article 7(1)(g)-(2).

<sup>2417</sup> The first element is the same as the *actus reus* of enslavement, which was considered at length in the ICTY case of *Kunarac*. See the *Kunarac* Trial Judgement, para. 540, 542, and 543, and the *Kunarac* Appeal Judgement, paras. 120- 121. Also see the AFRC Trial Judgement, para. 709 RUF Trial Judgement, para. 200. As regards the second element see AFRC Trial Judgement, para. 708.

<sup>2418</sup> AFRC Trial Judgement, para. 720.

<sup>2419</sup> AFRC Trial Judgement, para. 720. The Trial Chamber specifically agreed with the conclusion of the ICTY Trial Chamber in *Kvočka* that “sexual violence is broader than rape” and confirmed that the “prohibition embraces all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of coercion, or threat of force or intimidation.”

# **COUNT 6 – OUTRAGES UPON PERSONAL DIGNITY: APPLICABLE LAW**

842. In the AFRC Judgement Trial Chamber II adopted the following as constitutive elements of the crime of outrages upon personal dignity:

- (i) the perpetrator committed an outrage upon the personal dignity of the victim;
- (ii) the humiliation and degradation was so serious as to be generally considered as an outrage upon personal dignity;
- (iii) the perpetrator intentionally committed or participated in an act or omission which would be generally considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity; and
- (iv) the perpetrator knew that the act or omission would have such an effect.<sup>2420</sup>

843. It is submitted that the wording of the elements of the offence ought, in addition to “humiliating” and “degrading,” also include the words “or other violation” and or “or otherwise violated.” This is consistent with the phraseology adopted in the Statute of the ICC,<sup>2421</sup> and the phraseology adopted by Trial Chamber I in the RUF Judgement.<sup>2422</sup> In the ICC commentary to the elements of crimes, it is explained that “humiliation” and “degradation” are examples of outrages upon personal dignity and that “violation” is there to capture any other types of outrages upon personal dignity.<sup>2423</sup> The proposed additional wording therefore recognises humiliating and degrading treatment as examples of outrages to personal dignity and also ensures that other violations upon personal dignity are captured through the use of the term “violation.” This is in keeping with the observation of Trial Chamber II that the “list of offences subsumed under outrages against personal dignity constitutes a “non-exhaustive list of conduct, with humiliating and degrading treatment, rape, enforced prostitution and indecent assaults of any kind given by way of example.”<sup>2424</sup>

<sup>2420</sup> AFRC Trial Judgement, para 716, and Rule 98 Decision, para. 115.

<sup>2421</sup> In the Statute of the ICC, Article 8(2)(b)(xii) expresses the elements of an outrage upon personal dignity as follows: “(i) the perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons; (ii) the severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity.”

<sup>2422</sup> Trial Chamber I adopted a slightly different, although substantively identical, formulation in the RUF Trial Judgement at para 175: (i) The Accused humiliated, degraded or otherwise violated the dignity of one or more persons; (ii) The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity; and (iii) The Accused intended the act or omission in the knowledge that the act could have the effect of humiliating, degrading or otherwise violating the dignity of the person.

<sup>2423</sup> *The International Criminal Court Elements of Crimes and Rules of Procedure and Evidence*, Roy S. Lee, 2001 ed., page 184.

<sup>2424</sup> AFRC Trial Judgement, para. 175.



844. Elements (i) and (ii) constitute the *actus reus* of the offence. The first element is concerned with those acts that can constitute outrages upon personal dignity. As noted above, the Trial Chamber has observed that, the list of offences that can amount to outrages upon personal dignity is “non-exhaustive.”<sup>2425</sup> The following offences have been recognised as outrages upon personal dignity: rape,<sup>2426</sup> enforced prostitution,<sup>2427</sup> indecent assaults of any kind,<sup>2428</sup> sexual slavery,<sup>2429</sup> forced pregnancy, forced abortion and the removal of foetuses from the womb,<sup>2430</sup> enforced sterilization,<sup>2431</sup> forced incest,<sup>2432</sup> genital mutilation,<sup>2433</sup> forced undressing,<sup>2434</sup> insertion of foreign objects into genital openings and/or anus,<sup>2435</sup> forced complicity in a family member’s sexual abuse,<sup>2436</sup> and leaving infants without care after abusing, sometimes killing, their guardians.<sup>2437</sup> In addition, forced marriage and sexual mutilation can also constitute outrages upon personal dignity.<sup>2438</sup> In relation to the remaining elements of the offence the following footnoted sources of law are relied upon.<sup>2439</sup>

#### COUNTS 4-6: PRESENTATION OF THE EVIDENCE IN THE BRIEF

845. The evidence set out in the section on Count 4 below focuses on the specific acts of sexual violence – rape – referred to in paragraphs 14-17 of the Indictment. In addition to being proof of rape, some of these acts are also proof of “sexual slavery” under

<sup>2425</sup> AFRC Trial Judgement, para. 715.

<sup>2426</sup> AFRC Trial Judgement, para. 715 and 718, citing *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgement, 2 September 1998, para. 597.

<sup>2427</sup> AFRC Trial Judgement, para. 715. The Trial Chamber specifically noted that “humiliating and degrading treatment, rape, enforced prostitution, and indecent assaults,” are articulated in Article 3(e) of the Statute by way of example.

<sup>2428</sup> AFRC Trial Judgement, para. 715.

<sup>2429</sup> AFRC Trial Judgement, para. 719. The Tribunal was similarly satisfied that sexual slavery “is an act of humiliation and degradation so serious as to be generally considered an outrage upon personal dignity.”

<sup>2430</sup> Recognized as potential outrages upon personal dignity in *Prosecutor v. Bagosora*, ICTR-98-41-T, Decision on Motions for Judgement of Acquittal, 2 February 2005, para. 40.

<sup>2431</sup> See also the Partially Dissenting Opinion of Justice Doherty in the AFRC Judgement, para. 68, referring to the Statute of the ICC.

<sup>2432</sup> Recognized as a potential outrage upon personal dignity in *Prosecutor v. Bagosora*, ICTR-98-41-T, Decision on Motions for Judgement of Acquittal, 2 February 2005, para. 40. See also the Partially Dissenting Opinion of Justice Doherty in the AFRC Judgement, para. 68.

<sup>2433</sup> Recognized as an outrage upon personal dignity in the RUF Trial Judgement, paras. 1307-1309.

<sup>2434</sup> Recognized as an outrage upon personal dignity in *Prosecutor v. Kunarac*, IT-96-23-T & IT-96-23/1-T, Judgement, paras. 766-774.

<sup>2435</sup> Recognized as an outrage upon personal dignity in the RUF Trial Judgement, para. 1208.

<sup>2436</sup> Recognized as an outrage upon personal dignity in the RUF Trial Judgement, paras. 1304-1306.

<sup>2437</sup> Recognized as a potential outrage upon personal dignity in *Prosecutor v. Bagosora*, ICTR-98-41-T, Decision on Motions for Judgement of Acquittal, 2 February 2005, para. 40.

<sup>2438</sup> See the Partially Dissenting Opinion of Justice Doherty in the AFRC Trial Judgement, para. 68.

<sup>2439</sup> In relation to element (ii) see *Kunarac*, Trial Judgement, paras. 502 – 504; *Kunarac*, Appeal Judgement, para. 162. In relation to elements (iii) and (iv) see: RUF Trial Judgement, para. 177; *Kunarac*, Trial Judgement para. 504 and 774; *Kunarac* Appeal Judgement at para. 164. para. 164.

Count 5 because the victims were enslaved when these rapes, or “acts of a sexual nature,” were perpetrated, meeting the *actus reus* requirements for Count 5. Therefore, evidence of rapes which occurred in the context of sexual slavery referred to in the paragraphs below for Count 4 are incorporated by reference as proof for Count 5.

846. The evidence in the section on Count 5 below focuses on acts of sexual violence which amount to use as “sex slaves” as charged in the Indictment. In addition to being proof of “acts of sexual slavery” under Count 5, the majority of these acts are also proof of “rape” under Count 4 because many of these cases involved repeated rapes with the indicia of ownership perpetrated over a period. As cumulative convictions may be entered for crimes with materially distinct elements even if based on the same facts,<sup>2440</sup> the evidence of such repeated rapes of sex slaves referred to in the paragraphs below under Count 5 are incorporated by reference as proof for Count 4.

#### COUNTS 4-6: EVIDENCE

##### Sexual Violence: General

847. Throughout the course of the war in Sierra Leone, the Indictment Perpetrators engaged in widespread sexual violence against women and girls. Widespread sexual violence included rape, sexual slavery and outrages upon personal dignity.
848. Sexual violence was an integral part of the fighting forces’ *modus operandi*<sup>2441</sup> that peaked during the rebels’ military operations and occurred countrywide as the rebels sought to capture more territory. These widespread and systematic acts of sexual violence against civilian women and girls typically began with an armed attack against a civilian village, town or city and/or as part of operations. After taking control of all or part of the town or village, town or city, the attackers would exercise control over that area and against the women and girls by raping them, often repeatedly, many of whom they later abducted and used as “bush wives.”<sup>2442</sup>
849. While the RUF, like the NPFL, had an official line against rape,<sup>2443</sup> the evidence shows that the practice was to selectively use sexual violence against women to fit into the RUF’s general policy of using terror against civilians and to motivate its own unpaid

<sup>2440</sup> AFRC Appeals Judgement, para. 205; RUF Appeals Judgement, paras. 1197-98.

<sup>2441</sup> Exh. P-307, p. 21461, para. 36.

<sup>2442</sup> Exh. P-330, p. 23141 & 23157-58. See further Exh. P-78, para. 4, p 11; TF1-360, TT. 5 February 2008, pp. 3095-01; TF1-174, TT. 28 January 2009, p. 23779; TF1-532, TT. 31 March 2008, pp. 6206-08.

<sup>2443</sup> TF1-532, TT. 3 April 2008, pp. 6613-14. [REDACTED]

See further Exh. P-330, p. 23161. See finally DCT-125, TT. 9 March 2010, p. 36791, 93.

soldiers. The only rape or abuse of women which was punished was where the woman was the wife or “property” of another RUF fighter. But the purpose of such punishment was to maintain organisational control rather than punish the crime. However, as with periods of looting, rape and sexual slavery were used as rewards and motivation for fighters. Indeed, rape and sexual slavery were prevalent practices widely accepted and perpetrated by commanders and fighters alike,<sup>2444</sup> reaching unprecedented levels both during and after the Junta period<sup>2445</sup> and the Freetown Invasion.<sup>2446</sup>

850. Fighters were rewarded and civilians terrorized by allowing a window of rape and looting for several days after areas were captured.<sup>2447</sup> Once the area was under RUF control, the sexual violence was more regulated. Captured women and girls were assigned to fighters with commanders getting first choice.<sup>2448</sup>
851. A stark example of how rape was condoned as a weapon of terror was Issa Sesay’s rape of JPK’s wife. Although Sesay denied the the rape,<sup>2449</sup> claiming unequivocally that no one molested the victim,<sup>2450</sup> both Prosecution<sup>2451</sup> and Defence evidence<sup>2452</sup> combined with the adjudicated fact from the AFRC Judgement requested by the Defence<sup>2453</sup> clearly establish that JPK’s wife was the victim of Sesay’s sexual assault. Sesay’s rape was well-known among the RUF and demonstrates the RUF’s use of sexual violence to punish and humiliate not just the victim, but their families.
852. Moreover the nature, extent and brutality of the sexual violence used to terrorize civilians is reflected by women and girls repeatedly being raped by one of more combatants including with foreign objects, in the presence of husbands or other family members. These rapes were carried out under threat or other forms of coercion, often in

<sup>2444</sup> TF1-360, TT, 5 February 2008, pp. 3116, 3120-35. See also Exh. P-51.

<sup>2445</sup> Exh. P-330, pp. 23141-42. See also Exh. P-80, p. 00012393, paras. 33 & 36. See further Exh. P-333, pp. 23227-28.

<sup>2446</sup> Exh. P-328, p. 23001. See also Corinne Dufka, TT, 21 January 2008, pp. 1805-06.

<sup>2447</sup> TF1-174, TT, 28 January 2009, pp. 23782-83. See also TF1-060, TTs, 29 September 2008, pp. 17494 and 30 September 2008, pp. 17599-05.

<sup>2448</sup> TF1-532, TT, 31 March 2008, pp. 6207. See also TF1-174, TT, 28 January 2009, pp. 23782-83. At the time of capture, the adult commander chose the most beautiful girl first. The others girls were taken by the lower ranks.

<sup>2449</sup> DCT-172, TT, 16 August 2010, p. 46313.

<sup>2450</sup> DCT-172, TT, 8 July 2010, p. 44026.

<sup>2451</sup> TF1-367, TT, 21 August 2008, p. 14299; [REDACTED].

<sup>2452</sup> DCT-299, TT, 23 June 2010, p. 43243-44.

<sup>2453</sup> Adjudicated Fact No. 7, para. 188 (noted): When Johnny Paul Koroma departed for Kailahun District in 1998, he was given to believe that he would be welcome there by the RUF. However, when he arrived in Kailahun he encountered a hostile RUF leadership. He was arrested by Sam Bockarie, Issa Sesay and other RUF fighters. He was then stripped and searched for diamonds and his wife was sexually assaulted.

public. These women had generally been forcibly abducted from their homes or hiding places and then held in captivity for the purposes of sexual gratification and to perform domestic chores of their “rebel husbands.”<sup>2454</sup>

853. Furthermore, the sexual violence unleashed caused terror as it violated cultural norms. Young girls in particular virgins, women old enough to be grandmothers and mothers of the perpetrators, pregnant women and breastfeeding mothers were all targeted. Part of the terror experienced by victims included the fear of being stigmatized as victims of rape or other sexual violence and the children conceived through such violence were often rejected by family and society.<sup>2455</sup>

#### COUNT 4 – RAPE

##### General

854. The evidence proves beyond reasonable doubt the Accused’s guilt in respect of Count 4 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>2456</sup>

855. Rape was committed as part of widespread acts of sexual violence against civilian women and girls throughout Sierra Leone<sup>2457</sup> including in Districts such as Bombali,<sup>2458</sup>

<sup>2454</sup> Exh. P-366, pp. 22798 & 22800. See also Security Council SC/9364, 19 June 2008, p. 4: “Noting... [t]hat women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instil fear in... Reiterating ..., [a]nd in some situations have become systematic and widespread, reaching appalling levels of brutality.”

<sup>2455</sup> Exh. P-330, pp. 23155-59. See also Exh. P-333, pp. 23262-86.

<sup>2456</sup> Indictment, paras. 14-17; Pre-Trial Brief, paras. 7, 34, 75, 76, 96, 99, 103, 110, 113; Amended Case Summary, para 25.

<sup>2457</sup> Males were also the victims of rape. See Exh. P-330, p. 23157.

<sup>2458</sup> TF1-360, TT, 5 February 2008, pp. 3094-01. During “Operation Pay Yourself,” AFRC/RUF groups raped women in Makeni. Senior commanders were present in Makeni at the time. See also TF1-026, TT, 14 February 2008, pp. 3874-76. The witness and 16 other girls were handed over to Brigadier Issa by Sam Bockarie. They stayed in Makeni for two months. Each girl was given as a wife to the RUF boys on Issa’s order. The witness was forced to cook, launder and have sex with her RUF rebel husband. See further TF1-174, TT, 27 January 2009, pp. 23672-78. The witness testified about rampant sexual violence perpetrated by the combined forces of the RUF and AFRC during a 17 day period in Makeni from 17 March until 2/3 April 1998. See also TF1-375, TT, 24 June 2008, pp. 12595, 12601-02. The witness testified that civilians captured in Makeni included girls who were forcibly made RUF wives. One of the wives’ duties was to have sex with the RUF rebels. See further TF1-028, TT, 7 May 2008, pp. 9136, 9182-85, 9195-01. Around the time of the Intervention, the witness’ sister’s child, 12 years old, was raped in Mandaha. She testified to many girls brought from other villages to this town and women over the six days she was there were raped continuously in the street by the junta. The commanders present at the time included Gullit, Five-Five and Leatherboot. The witness described her time in Rosos for seven months, where she, her elder sister (45 year old) and her younger sister (13 year old) were continuously raped by junta men. Other women were raped by juntas in Rosos.

Kenema,<sup>2459</sup> and Port Loko (Masiaka),<sup>2460</sup> in addition to those Districts set forth in the Indictment.

856. Following the joint attack on Sierra Leone by RUF and NPFL forces in March 1991, rape became a common violent practice amongst the RUF soldiers. Isaac Mongor testified that rebels started raping women and girls from the early stages of the war. Rape was rampant and everybody in the RUF knew about it. It happened numerous times, even by those in the highest echelons of the rebel command.<sup>2461</sup> Issa Sesay admitted to hearing about rape being committed in parts of Sierra Leone by RUF combatants and even raped women himself.<sup>2462</sup> DCT-146 also admitted that the RUF raped during the war in Sierra Leone.<sup>2463</sup> On 18 June 1997, RUF spokesman Eldred Collins delivered a speech to the nation in which he apologized to the countrymen of Sierra Leone for the atrocities committed during the past 6 years, including “removing our sisters from their hiding places to undo their femininity.”<sup>2464</sup>
857. Rape was used in myriad forms to instil terror amongst the civilian population, often in association with the other crimes charged in the Indictment. For instance, the fact that

<sup>2459</sup> TF1-060, TTs, 29 September 2008, pp. 17494 and 30 September 2008, pp. 17599-05.

<sup>2460</sup> TF1-085, TT, 27 October 2008, pp. 19198-05, 19211-13 & 19277-79. Captain James, the ground commander at Masiaka, forced TF1-085 to have sex with him against her will there. There were up to 300 abducted women and girls in Masiaka. Some were raped. No one was punished for raping these girls nor was Captain James punished for raping the witness.

<sup>2461</sup> TF1-532, TT, 3 April 2008, pp. 6613-14. The witness himself acknowledged sexually assaulting women. He added if he tried to stop his men from raping women and girls, he would have lost soldiers because they would simply have gone to other commanders who tolerated it. At the time, his commander was Issa Sesay. There was an incident in Makeni where Issa Sesay had three RUF boys executed for rape, but that case was an exception to the rule. See also Exh. P-330, p. 23161.

See further TF1-337, TT, 4 March 2008, pp. 5245-51. The witness testified he was a junior fighter manning checkpoints from August 1991 for three months in Bumpeh Perri in Pujehun District. He saw his Liberian commander Dixon Wolo including senior NPFL and RUF fighters force over 200 women to have intercourse with them every night. These women were taken from their husbands. In November 1991 in Kenema Soro, he saw senior NPFL and RUF fighters rape many women including pregnant and menstruating women. Those women were taken forcefully from their husbands. See also

<sup>2462</sup> DCT-172, TTs, 5 July 2010, p. 43590; 26 July 2010, pp. 44615-16 & 16 August 2008, p. 46320. The witness agreed that RUF fighters and commanders committed rape crimes against the civilian population of Sierra Leone. See also TF1-532, TT, 3 April 2008, pp. 6613-14. See further ; TF1-367, TT, 21 August 2008, p. 14299; DCT-299, TT, 23 June 2010, p. 43243-44. See also AFRC Adjudicated Fact 7 (JPK was stripped, searched for diamonds and his wife sexually assaulted after he was arrested in Kailahun by Bockarie, Sesay and others).

<sup>2463</sup> DCT-146, TT, 12 April 2010, pp. 38713-14. The witness testified that raping occurred in the RUF. You would meet a woman and tell her, “I want to have sex with you,” and it would happen. It was an allegation against the RUF.

<sup>2464</sup> Exh. P-57 (Transcript of the RUF speech to the nation delivered on SLBS on 18 June 1997), para 1.

rapes were committed with other gruesome and horrific atrocities, including killings,<sup>2465</sup> mutilations,<sup>2466</sup> brutal gang rapes,<sup>2467</sup> rapes of children,<sup>2468</sup> rapes in front of family members and other civilians,<sup>2469</sup> rapes with other family members,<sup>2470</sup> rapes with objects<sup>2471</sup> and in public,<sup>2472</sup> clearly show that the ultimate objective of rape was to terrorize the innocent civilian population.<sup>2473</sup>

858. Arbitrary terror was further instilled by sexual acts that directly assailed accepted cultural norms, violating not only the victim but also their family or the wider community. The rebels forced civilians to commit incest; a brother forced to rape his sister, fathers forced to rape their daughters. Old women and breastfeeding mothers were also raped, which violated a Sierra Leonean cultural norm in which these women are presumed not to be sexually active. Child combatants raped women who could have

<sup>2465</sup> TF1-217, TT, 28 October 2008, pp. 19402-12. The witness' wife was stabbed to death after having been gang raped by eight RUF fighters. See also Exh. P-365, p. 22758, para 2.

<sup>2466</sup> Exhs. P-249, P-250, TF1-358, TT, 19 November 2008, pp. 20648-50, 55-56. See also TF1-192, TT, 15 February 2008, pp. 3972-75. The witness testified that Abdul Rahman Tejan Cole was forced to have sex with a woman. He was unable to do so, which prompted the rebels to slash at the privates of the woman he was paired with. The witness was six metres away from Abdul.

<sup>2467</sup> TF1-305, TT, 7 October 2008, pp. 18097-07. The witness testified that eight rebels took turns raping her at gun point in the bushes in Njaiama town in Kono in early 1998. The rebels called themselves Liberian Boy, Killer, Sergeant and Corporal. They spoke Liberian English. See also Exh. P-330, pp. 23143-45 & 23160. See further [REDACTED]. See further [REDACTED] Exh. P-73, pp. 00031564-65.

<sup>2468</sup> TF1-085, TT, 23 October 2008, pp. 19182-85. The witness testified her captor (Captain James) raped her in Mammy Dumbuya's church in Allen Town. She had not begun her menses yet. Captain James and other rebels also raped many small girls at the church. See also TF1-174, TT, 28 January 2009, pp. 23766 & [REDACTED]

See further TF1-174, TTs, 27 January 2009, pp. 23696-98 & 28 January 2009, pp. 23789-92 & [REDACTED] See also Exh. P-43, p. 23, Section X.

<sup>2469</sup> TF1-358, TT, 19 November 2008, pp. 20655-56. See also Exh. P-203 (Adoption of Statement by the Witness and Interview Notes, 4 July 2008, TF1-206). The witness said her father was forced to watch, laugh and clap while he watched his wife have sex with another man. See further Exh. P-331, pp. 23194-95. See also Exh. P-73, p. 00031557.

<sup>2470</sup> Exh. P-78, para. 1, p. 12. See also Exh. P-331, p. 23914. See further TF1-532, TT, 31 March 2008, pp. 6208-10. The witness testified that in 1993 in Giehun, 10 miles from Kailahun Town, Sam Bockarie forced the son of Foday Sankoh's girlfriend "Jande or Janet" to have sex with her before they killed her.

<sup>2471</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19478-80. See also Exh. P-330, pp. 23149.

<sup>2472</sup> TF1-217, TT, 28 October 2008, pp. 19402-12: when Staff Alhaji and his Junta rebels attacked the witness' village in April 1998 in Penduma, Kono District, the women were split into two groups and non-pregnant women were raped. Staff Alhaji told his men, "They are yours," which prompted the rebels to take off their pants. The women were then raped in public in the vicinity of the UMC primary school. The witness and his children were forced to watch as eight of Staff Alhaji's boys raped his wife and stabbed her to death after the gang rape. He knew two of the boys who raped his wife—Tamba Joe and Junior. The witness was forced to count as his wife was being raped. In cross-examination the witness was challenged on his failure to mention his wife. But in redirect, he clarified that if he had spoken about his wife it would have caused a serious psychological impact on him (pp. 19471, 19482).

<sup>2473</sup> Indictment, paras 5, 33. See also Pre-Trial Brief, paras. 6, 7. See further Accused, TTs, 30 July 2009, p. 25602 and 18 January 2010, pp. 33409-10. Taylor admitted he did not and nobody could contest that the population of Sierra Leone were clearly being terrorized in May 1998. Further that the high point of the orgy of violence which afflicted Sierra Leone began with the intervention in February of 1998 which lasted through until January 1999.

been their mothers or grandmothers. Sacred places were deliberately targeted; victims report being raped in mosques, churches, and sacred places of initiation.<sup>2474</sup>

859. In relation to the Districts charged in the Indictment for Count 4, the crimes committed in Kono District are best understood in the context of the forces retreating from Freetown following the Intervention.<sup>2475</sup> Similarly, the rape which occurred throughout Kailahun District is best understood in the context of the District's role as an RUF stronghold throughout the conflict. The rape which occurred in Freetown and Western Area is properly understood as part of the Freetown Invasion.

### **Kono District**

860. The AFRC/RUF raped an unknown number of civilian women and girls in locations throughout this District between about 1 February 1998 and 31 December 1998, including Koidu, Tombodu or Tumbodu, Wondedu and AFRC and/or RUF camps such as "Superman Ground," "Guinea Highway" and "PC Ground."<sup>2476</sup>

861. JPK declared Kono a "no go" area for civilians in February 1998.<sup>2477</sup> Thereafter, the rebels operated a "reign of terror" by committing acts of rape often at gunpoint,<sup>2478</sup> under threat of death,<sup>2479</sup> and amputation.<sup>2480</sup> One witness, who was forced to rape a woman by the rebels, did so because "When death is hanging over you, you have no option. Whatever they say, you just say, 'Yes sir.' If you refuse, you will be killed."<sup>2481</sup> Victims were sometimes beaten during and/or following the rapes; some

<sup>2474</sup> Exh. P-330, pp. 23150-54. See also P-73, p. 00031558.

<sup>2475</sup> Including during Operation No Living Thing.

<sup>2476</sup> Indictment, para. 15.

<sup>2477</sup> TF1-334, TT, 17 April 2008, pp. 7950-52.

<sup>2478</sup> Exh. P-201 (RUF Transcript of TF1-195 of 1 February 2005), pp. 19466-69 and pp. 19478-82. See also TF1-195, TT, 15 October 2008, 18436-40. The witness was captured in Kainako, Kono and forced at gun point to have sex with three rebels there who spoke Krio, Mende and Liberian. The witness was then taken to Benguema Fiama with five other women where she was forced at gun point to have sex with two rebels on the main road. The second rebel who raped her inserted a stick in her vagina. Her multiple rape ordeals took place during the intervention period when the People's Army was removed from Freetown and went to Kono. See also TF1-305, TT, 7 October 2008, pp. 18097-07.

<sup>2479</sup> Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18879-82). See also TF1-218, TT, 14 October 2008, pp. 18353-58. The witness was subjected to rape by one of the rebels for a long time. He was armed with a gun and a knife. He threatened to kill her if she refused. This rape incident took place in the presence of all the captured people in the room in the nearby house at Cockerill Junction in Bumpé. She was subjected to rape a second time by another one of the rebels. See also TF1-305, TT, 7 October 2008, pp. 18097-07.

<sup>2480</sup> Exh. P-332, pp. 23204-07.

<sup>2481</sup> Exh. P-202 (AFRC. Transcript of TF1-206, 28 June 2005) pp. 19671-85, 19721-25. The witness testified rebels took seven women (including Fatmata and Adama) out of the line and laid them down and opened their legs. He was one of seven men chosen by a young boy aged 12-14 dressed in combat to have sex with the

died from the beatings.<sup>2482</sup> Victims included mothers with young infants<sup>2483</sup> and young girls.<sup>2484</sup>

## Koidu

862. Following the Intervention, retreating AFRC/RUF forces travelled to Kono District, specifically Koidu Town. Their pattern of terror by committing widespread rapes reached unprecedented levels in February, March and April 1998.<sup>2485</sup>
863. TF1-217 was in Koidu Town in February 1998. On taking over the town, the Juntas and rebels regularly went knocking on people's doors at midnight, committing atrocities including rape.<sup>2486</sup> The Juntas and rebels were briefly chased out of Koidu Town but a few weeks later AFRC/RUF troops led by Superman returned.<sup>2487</sup> Rape was again committed<sup>2488</sup> and the perpetrators were not punished.<sup>2489</sup>
864. On or about 12 March 1998, witness TF1-189 endured a horrific gang rape by five rebels at a location in Kono District. She estimated the rebels ranged in age from 15 to 25. Thereafter, in pain and weak, she was forced to walk to Koidu Town to Superman's compound. She stayed at another compound within Koidu Town until August 1998. During this time, three RUF rebels forced the witness to have sexual intercourse with them. She did not consent to this conduct but did not explicitly refuse for fear of the consequences. Five girls captured from Kono suffered the same fate as her at the same

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women. During which time, the rebels stood by watching and laughing. This took place in Bomboafuidu on 12 April 1998. Some of the rebels spoke Krio, Mende and in Liberian accents.

<sup>2482</sup> Exh. P-203 (Adoption of Statement by Witness and Interview Notes, 4 July 2008, TF1-206), paras 2-3: One of the women who was forced to have sexual intercourse was the witness' step mother. She was beaten severely for trying to resist and died some months later due to her injuries.

<sup>2483</sup> TF1-064, TT, 30 September 2008, pp. 17641-47, 60. The witness testified to being raped by an abductee Temne man. He was forced to do so by rebels (some dressed in combat fatigues & civilian clothing). At the time, she was told to lay the child down she was carrying.

<sup>2484</sup> TF1-305, TT, 7 October 2008, pp. 18097-17. The witness, then a young girl, was ordered to strip naked and then was raped by eight rebels at gun point in view of her relatives. Her ordeal took place Njaiama in Nimikoro Chiefdom in Kono in early 1998. The rebels wore green and brown combats and spoke English and Liberian English. See also TF1-189, TT, 17 September 2008, pp 16501-03 [REDACTED]

<sup>2485</sup> Exh. P-78, p. 1, para 1 & p. 11, para 1.

<sup>2486</sup> TF1-217, TT, 28 October 2008, pp. 19375-78 and pp. 19383-84. The juntas started knocking at doors at midnight, raping women and looting property. The witness went to the government hospital in Koidu where he met young girls and women who had been raped. Commanders he saw in Koidu Town included Alhaji Bioh, Captain Bai Bureh, Lieutenant Jalloh, Komba Gbundema and Sam Bockarie. [REDACTED]

<sup>2487</sup> TF1-375, TT, 23 June 2008, pp. 12502-05.

<sup>2488</sup> Exh. P-366, p. 22800.

<sup>2489</sup> TF1-334, TTs, 18 April 2008, pp. 8006-08 & 21 April 2008, pp. 8064-65.



compound. No one was punished for the rape<sup>2490</sup> and rape continued to be committed in Koidu Town.<sup>2491</sup>

865. In April 1998, as part of Operation No Living Thing, the rebels unleashed their campaign of terror against civilians. A grotesque pattern of rape including killings and mutilations became evident. With ECOMOG and rebel forces fighting around Koidu, attacks on civilians in villages in the area continued.<sup>2492</sup>

866. The infliction of their campaign of terror continued into June 1998. A.B. Sesay was with the fighting force that moved and captured Koidu Town with Superman as overall commander in February 1998.<sup>2493</sup> Captured civilians from Makeni including young women and girls aged 8-10 were taken to Kono by the forces. In Masingbi Road, Koidu Town, he saw both junior and senior SLA and RUF commanders engaged in sexual intercourse with the young women. SBUs forced the girls aged 8-10 to have sex with them. The young women and girls were forced to comply because the commanders had guns. Moreover, A.B. Sesay admitted to raping a young girl of 16 he captured in Kono. No one was disciplined for perpetrating these rapes.<sup>2494</sup>

#### **Tombodu or Tumbodu**

867. The AFRC/RUF forces eventually settled in Tombodu for a period in around March 1998. Mohamed Savage was based in Tombodu as battalion commander. Witness A.B. Sesay and Hassan Papa Bangura would go on patrols to Tombodu. He testified that in Tombodu captured young women were forced to have sexual intercourse with the SLA and RUF and girls aged 8-10 were forced to have sexual intercourse with SBUs.<sup>2495</sup>

<sup>2490</sup> TF1-189, TT, 17 September 2008, pp. 16505-20. [REDACTED]  
See further [REDACTED].

<sup>2491</sup> TF1-303, TTs, 28 January 2008, pp. 23838 & 29 January 2009, pp. 23850-65, p. 23899. The witness testified Peppe (who belonged to Superman's group) raped her in Baiama. He then took her to Koidu Town where he raped her again. She next met another rebel Sergeant Foday who took her to his house close to Opera in Koidu Town and had sex with her every night. She did not volunteer to have sex with him but had no option. She had not begun her menses yet. She stayed in Opera until ECOMOG attacked Koidu Town close to the dry season. See also Exh. P-366, p. 22800.

<sup>2492</sup> Exh. P-78, p. 11, para. 4.

<sup>2493</sup> TF1-334, TT, 17 April 2008, pp. 7944-47.

<sup>2494</sup> TF1-334, TTs, 18 April 2008, pp. 7976, 8006-08; 21 April 2008, pp. 8064-65; 29 April 2008, pp. 8865.

<sup>2495</sup> TF1-334, TTs, 18 April 2008, pp. 7976-83, 95, 8006-08 & 21 April 2008, pp. 8064-65 & 29 April 2008, pp. 8865. See also TF1-360, TT, 5 February 2008, p. 3157.

868. In another incident Staff Alhaji raped a Limba woman named Sia Lappia at gunpoint. Staff Alhaji was the boss of a group of RUF and AFRC soldiers.<sup>2496</sup>

#### **Wondedu<sup>2497</sup>**

869. Rape was also widespread in Wondedu. At night the women in this village were forced to have sex with the rebels. Witness Alex Tamba Teh heard the women's screams and was told by Rebecca that she screamed and cried at night because the rebels 'forcefully sex us.'<sup>2498</sup>

#### **AFRC &/or RUF camps such as "Superman Ground," "Guinea Highway" & "PC Ground"**

870. On or about April 1998, the AFRC/RUF lost control of Koidu Town. However, they maintained a presence in Camps<sup>2499</sup> such as "Superman Ground," "Guinea Highway" and "PC Ground" and including other AFRC/RUF camps in areas as outlined in the evidence presented.<sup>2500</sup>

871. Isaac Mongor, along with SLA, STF and RUF gunmen, captured civilians during attacks and brought them to these camps. The women captives were under the sole control of the men. He and the gunmen had sex with the women.<sup>2501</sup> In effect, these camps amounted to an environment where the forces "terrorized" the women and girls as the rapes were an integral instrument of terror levied on the civilian population.

872. Young women and girls aged 14, 15 and 20 captured in Mortema some three months after the Intervention were also taken to these camps. The girls were forced to have sex

<sup>2496</sup> TF1-197, TT, 16 October 2008, pp. 18480-89. Sia was raped in front of TF1-197 and his brother. The witness testified Sia's rape took place during April 1998. He knew Sia who was a suckling mother. Sia was forced to rest her child down on the veranda before being raped.

<sup>2497</sup> Rule 98 Decision, TT, 4 May 2009, p. 24202: "The Trial Chamber recalls its finding at paragraph 25 of the AFRC Rule 98 decision that it would not be appropriate or desirable to strike out the names of such locations given that a variety of languages and dialects are spoken in Sierra Leone and that some witnesses are illiterate. Thus names of locations mentioned by witnesses which are similar but not identical to the names of locations that appear in the indictment may refer to the same location." See also AFRC Judgement, para. 115. The witnesses cited here reference the same location.

<sup>2498</sup> TF1-015, TT, 8 January 2008, pp. 683-84, pp. 704-705 and p. 721.

<sup>2499</sup> TF1-375, TT, 23 June 2008, pp. 12521-23. Superman Ground was located about five miles and PC Ground about six to seven miles from Koidu Town along the Guinea Highway towards Jagbwema Fama. See also TF1-584, TT, 18 June 2008, p. 12159. Superman was in overall charge of Kono District for the RUF. See further TF1-532, TT, 11 March 2008, p. 5763.

<sup>2500</sup> TF1-584, TT, 18 June 2008, pp. 12176-82 and Exh. P-146. See also TF1-360, TT, 5 February 2008, pp. 3112-15, p. 3131. See further DCT-146, TT, 24 March 2010, p. 37903.

<sup>2501</sup> TF1-532, TT, 11 March 2008, pp. 5762-66. See also TF1-584, TT, 18 June 2008, pp. 12195-96: women captured from villages were brought to PC Ground and were forced to 'sleep with' the combatants. See further TF1-334, TT, 21 April 2008, pp. 8064-65.

with the RUF fighters. Makela was one such 14 year old.<sup>2502</sup> Another victim was Finda Gbamanja who was forced to have sex with Sergeant Foday at Superman Ground for a long time. She did not agree to have sex with him but had no choice.<sup>2503</sup>

873. Superman's men were in control along Guinea Highway from Koidu passing through Jagbwema Fama, Kainkordu and Kaordu up to Kamiendo.<sup>2504</sup> At Jagbwema Fama, women were forced to have sexual intercourse with the RUF and SLA. This took place from March to June 1998.<sup>2505</sup>

#### **Other locations in Kono District**<sup>2506</sup>

874. The AFRC/RUF continued their "reign of terror" by committing acts of rape in several other locations in Kono District, within the time frame of the Indictment.<sup>2507</sup> Such other locations include Penduma,<sup>2508</sup> Baiama,<sup>2509</sup> Nimikoro,<sup>2510</sup> Kainako,<sup>2511</sup> Sawao,<sup>2512</sup> Yawando,<sup>2513</sup> Bumpe/Bumpeh,<sup>2514</sup> Foendor,<sup>2515</sup> Bomboafuidu,<sup>2516</sup> Yengema,<sup>2517</sup> and [REDACTED].<sup>2518</sup>

<sup>2502</sup> TF1-375, TTs, 23 June 2008, pp. 12515-23 & 24 June 2008, pp. 12601-12602.

<sup>2503</sup> TF1-303, TT, 29 January 2009, pp. 23866-72. See also para. 907 regarding this witness.

<sup>2504</sup> TF1-584, TT, 18 June 2008, p. 12177-78. See locations between #2-3 as marked on Exh. P-146.

<sup>2505</sup> TF1-334, TTs, 21 April 2008, pp. 8064-65 & 18 April 2008, pp. 8006-08.

<sup>2506</sup> Although these towns in Kono District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of rapes at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>2507</sup> See also Exh. P-79, May 5 1998, paras. 2 & 4. See further Exh. P-332, pp. 23204-07.

<sup>2508</sup> TF1-217, TT, 28 October 2008, pp. 19398-12. The witness's wife was gang-raped by eight rebels when Staff Alhaji and his Junta rebels attacked his village in April 1998 in Penduma in Kono District.

<sup>2509</sup> TF1-303, TT, 28 January 2009, pp. 23842-45. Between the rainy and dry season in 1998, TF1-303 met some girls bleeding and crying in the bush near Baiama town. The girls explained that they had been raped by the rebels.

<sup>2510</sup> [REDACTED]

[REDACTED] See also TF1-459, TT, 25 September 2008, pp. 17208, 17215-18, 17285-86 and [REDACTED]. The witness testified his [REDACTED] were raped by AFRC/RUF guys in Fakoyia in Nimikoro in March 1998. [REDACTED], a virgin was 'deflowered' by an AFRC/RUF guy at Njaima Nimikoro camp. See further TF1-065, TT, 24 September 2008, pp. 17068, 17072-78.

<sup>2511</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19458-69. See also TF1-195, TT, 15 October 2008, pp. 18436-40. During the dry season following the Intervention, three rebels raped TF1-195 in the bush near Kainoko at gunpoint despite her pleas she was menstruating. She believed the rebels spoke Krio, Mende and Liberian.

<sup>2512</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005) pp. 19478-80 and TF1-195, TT, 15 October 2008, pp. 18436-40. Women brought to Fall Road near Sawoa were told to "disarm themselves," which meant undress. The witness was raped by 2 rebels. After the second rebel finished having sex with her, he put a stick into her vagina and left it there. Lieutenant T gave the order to the rebels to rape her. The rebels spoke Mende, Krio and Liberian.

<sup>2513</sup> Exh. P-218A (AFRC Transcript of TF1-198, 28 June 2005), pp. 19580-82 and pp. 19592-93. Towards the end of the dry season in 1998 in Yawando bush, in Kono District, a soldier threatened to rape TF1-198. She

Kailahun District

875. Kailahun remained an RUF stronghold throughout the conflict<sup>2519</sup> where senior commanders were regularly based,<sup>2520</sup> and from where support for operations was provided.<sup>2521</sup> The Indictment Perpetrators raped an unknown number of civilian women and girls in locations throughout this District between about 30 November 1996 and about 18 January 2002.<sup>2522</sup> This included rapes by senior commanders.<sup>2523</sup>

was four months pregnant at the time. Instead, he took a large stick and inserted it into her anus. She bled profusely.

<sup>2514</sup> Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18881-84. See also TT, 14 October 2008, pp. 18352-53. The witness was raped at gun point by two rebels at Cockerill junction in Bumpe in front of other captured civilians. See further TF1-334, TTs, 21 April 2008, pp. 8064-65 & 18 April 2008, pp. 8006-08.

<sup>2515</sup> Exh. P-195 (AFRC Transcript of TF1-076, 27 June 2005), pp. 18616-21. See also TT, 13 October 2008, p. 18228. The witness testified she was raped at gun-point by a rebel in Foendor bush in 1998. She was a virgin at the time. The rebel wore a Tupac t-shirt and carried a short gun. The rebels spoke in Liberian dialect. She insisted the rebels' behavior was sufficient to prove they were RUF. See further TF1-064, TT, 30 September 2008, pp. 17641-46. The witness was raped in the bush outside of Foendor around 5 May 1998 by an abducted Temne man on the orders of the rebels (some dressed in combat fatigues & civilian clothing).

<sup>2516</sup> Exh. P-202 (AFRC, Transcript of TF1-206, 28 June 2005) pp. 19671-85, 19721-25. In April 1998, the witness was one of seven men chosen by a young boy aged 12-14 dressed in combat and forced to have sex with women picked by rebels. The rebels stood by watching and laughing. Some of the rebels spoke Krio, Mende and in Liberian accents. See also Exh. P-203 (Adoption of Statement by Witness and Interview Notes, 4 July 2008, TF1-206), paras 2-3: One of the women forced to have sex was the witness' step mother. She was beaten severely for trying to resist. The witness' father was forced to laugh and clap while he watched his wife have sex with another man. The trauma suffered was lasting: "the father cried all the time because of this and never got over all that he had gone through." See further TF1-192, TT, 15 February 2008, pp. 3960, 3967-79. During this incident TF1-192 watched as his elder sister was forced to have sex and another woman had a mortar pestle about six inches (15 cm.) in diameter and about five foot-six inches in length (175 cm.) put into her vagina by a rebel.

<sup>2517</sup> TF1-334, TTs, 21 April 2008, pp. 8064-65 & 18 April 2008, pp. 8006-08.

<sup>2518</sup> TF1-189, TT, 17 September 2008, pp. 16496-13.

<sup>2519</sup> TF1-567, TT, 7 July 2008, pp. 13071.

<sup>2520</sup> TF1-114, TT, 15 January 2008, pp. 1258-1261.

<sup>2521</sup> [REDACTED]. See also, Exh. P-296, p. 21856.

<sup>2522</sup> Indictment, para. 16.

<sup>2523</sup> [REDACTED]

See also TF1-367, TT, 21 August 2008, pp. 14298-01. See further TF1-045, TTs, 13 November 2008, pp. 20202 & 14 November 2008, pp. 20266-69 & 17 November 2008, pp. 20417. The witness admitted to rape in the ten years or so he was with the RUF. He raped 22 year old Beatrice. She was captured from Sierra Rutile in 1995 and stayed with the witness until 2000. By January 1998, he served as a senior officer 'Captain' with Mosquito. See further TF1-568, TT, 16 September 2008, pp. 16296-97. See further Charles Taylor, TT, 14 September 2009, p. 28757. He testified that JPK's wife had been 'abused'. See further DCT-299, TT, 23 June 2010, pp. 43243-44. See further AFRC Adjudicated Fact 7 (JPK was stripped, searched for diamonds and his wife sexually assaulted after he was arrested in Kailahun by Bockarie, Sesay and others).

876. Buedu was the AFRC/RUF headquarters from about February 1998 to 2000. [REDACTED]

[REDACTED]

877. In February 1998, when "Operation Pay Yourself" was declared by Sam Bockarie in Kenema, more than 400 civilians including "beautiful ladies to convert into a wife" were abducted and taken to Daru in Kailahun District. Augustine Mallah, a former RUF member, moved with the troops to Daru. The abducted civilians were distributed in villages within Kailahun District. Mallah's 13-year-old niece Aminata was one of the captured civilians and Ibrahim, an "RUF," forced her to have sex with him. Thereafter, these abducted women were taken to Buedu and forced to have sex with their captors. These women feared for their safety within this group of armed men as refusing to have sex meant they would be kicked about like a football. Mallah explained:

When Musa comes he will kick you and you will go to Vandi and he too will kick you. Like me, if I come and I want to have an affair, to have sex with a woman and I don't have a woman, and you are there without a husband I would just go to you.<sup>2525</sup>

878. Women brought to Kailahun District from Freetown following the Intervention were distributed by CO Fourray - the G5. Women had to have sex with the commanders or soldiers assigned to them and many of them had little choice. The women who were not distributed to anyone were left on their own and some of them suffered the violent misfortune of sexual abuse by several RUF men.<sup>2526</sup>

<sup>2524</sup> [REDACTED]

<sup>2525</sup> TF1-045, TTs, 13 November 2008, pp. 20166-77, 20204-07 & 14 November 2008, pp. 20266-69. The witness admitted 22 year old Beatrice captured in Sierra Rutile was used as football by RUF fighter signaller Solo and himself. Beatrice stayed with the witness from 1995 up to 2000. See also TF1-189, TT, 17 September 2008, pp. 16516-23 [REDACTED]

[REDACTED] See further TF1-028 who corroborates TF1-045's assessment of the fate of captured women who were left "unprotected": around the time of the Intervention in Mandaha girls and women brought from other villages were raped continuously in the street by the junta; in Rosos over a seven month period, the witness and her sisters were continuously raped by junta men (TT, 7 May 2008, pp. 9136, 9182-85, 9195-01).

<sup>2526</sup> TF1-577, TT, 5 June 2008, pp. 11147-50. The witness testified that if rape was reported, it would be investigated and action would be taken. However, it was difficult for a woman to make such a complaint. See also TF1-330, TT, 20 February 2008, pp. 4294-97.

879. Kailahun District operated as a major training location where forcibly conscripted men, women and children were held and given military training at various bases within the District. The women and girls at these bases were often subjected to rape.<sup>2527</sup> In 1998, Sam Bockarie ordered the opening of Camp Lion training base at Bunumbu on the instructions of Taylor. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>2528</sup>

880. The extent and prevalence of the systematic and widespread rape inflicted by members of the AFRC/RUF on women and girls continued following the Freetown Invasion. The RUF 1st Brigade Internal Defence Unit chief clerk in Pendembu said fighters came and signed up for many captured women from towns or villages who were without their families. The women were taken to the fighters' houses to have sexual intercourse with them.<sup>2529</sup>

#### **Freetown and Western Area**<sup>2530</sup>

##### **The advance to Freetown**

881. As the forces advanced towards and attacked Freetown and the Western Area,<sup>2531</sup> women and young girls were routinely raped—a standard practice of the rebel combatants.<sup>2532</sup> The rapes were often perpetrated repeatedly and by multiple rapists,<sup>2533</sup> and in association with other crimes such as killing, abductions and mutilations.<sup>2534</sup> The Accused admitted to the orgy of violence which engulfed Freetown beginning on

<sup>2527</sup> e.g. Exh. P-330, p. 23160.

<sup>2528</sup> [REDACTED] See also TF1-532, TT, 31 March 2008, pp. 6208 and 11 March 2008, pp. 5762-63. The witness testified that in Kailahun District occupied in 1998 by the RUF, the women were turned into wives. Some women were trained to be soldiers. The witness explained that as a wife, the woman had to have sex with the gunman who captured her. The women did not have a choice. To protect their lives, the women could not refuse.

<sup>2529</sup> TF1-337, TTs, 4 March 2008, pp. 5234, 5 March 2008, pp. 5318-27.

<sup>2530</sup> Indictment, para. 17. See Section IV above.

<sup>2531</sup> See Section IV above.

<sup>2532</sup> [REDACTED] See also [REDACTED]. See further Exh. P-328, p. 23003 & Exh. P-330, p. 23143.

<sup>2533</sup> Exh. P-331, p. 23194, last para.

<sup>2534</sup> Exhs. D-191 & P-310, para 24. See also Dufka, TT, 21 January 2008, p. 1798. See further Exh. P-330, p. 23149.

January 6 1999, “[e]verybody knows some terrible things happened in Sierra Leone.”<sup>2535</sup>

882. In late December 1998 around four days after AFRC/RUF rebels attacked Tombo, TF1-074 fled to Kissy, Falcon Street. In Kissy, he saw girls aged 13 to 15 raped in an open space by rebels under threat of death from the female rebel leader.<sup>2536</sup>
883. The AFRC/RUF entered Freetown on 6 January 1999,<sup>2537</sup> unleashing their “reign of terror” of which rape was an intrinsic element.<sup>2538</sup> TF1-083 was told by his sister-in-law that she had been taken by rebels to Occra Hills in the Western Area and raped.<sup>2539</sup> James Kpumgbu saw rebels around Kissy Town and heard they were raping for about three days.<sup>2540</sup> TF1-026 and seven girls aged 17-22 were raped by armed RUF rebels in Calaba Town.<sup>2541</sup>
884. On or about 8 January 1999, girls aged 12 to 15 and previously verified as virgins were repeatedly raped by a rebel commander and his men in the Cline Town area. The rapes typically took place in public.<sup>2542</sup> From 15 to 25 January 1999, a high incidence of rape of children was also reported from the Clay Factory Displaced Persons Centre.<sup>2543</sup>
885. From around 8 January 1999 and thereafter over a period of two to three weeks patients requiring medical attention were brought to hospital from areas such as Kissy and Wellington. Among the patients treated was a young suckling mother gang raped by rebels. Other female patients narrated accounts of being raped in front of relatives and husbands.<sup>2544</sup>

<sup>2535</sup> Accused, TT, 11 August 2009, pp. 26467-70. See also TT, 30 July 2009, pp. 25602.

<sup>2536</sup> TF1-097, TTs, 16 October 2008, pp. 18560-69, 17 October 2008, p. 18597-00, 18643. TF1-334, TT, 24 April 2008, pp. 8440-41. “Tombo” is location no. 8 on Exh. P-109.

<sup>2537</sup> TF1-334, TTs, 22 April 2008, pp. 8263-80 & 23 April 2008, pp. 8420-24 & 24 April 2008, pp. 8440-41. “Hastings” is location no. 5 and “Allen Town” is no. 2 on Exh. P-109. See also Exh. P-107. See also TF1-360, TT, 6 February 2008, pp. 3224-25.

<sup>2538</sup> Exh. P-331, p. 23194, last para. See also Exh. P-330, pp. 23149, 23151. See further Corrine Dufka, TT, 21 January 2008, p. 1798.

<sup>2539</sup> Exh. P-290A (ARFC Transcript of TF1-083, 8 April 2005), pp. 18764-70, 86. See also TF1-334, TT, 24 April 2008, pp. 8440-41. “Occra Hill” is location no. 12 on Exh. P-109.

<sup>2540</sup> TF1-087, TT, 13 October 2008, pp. 18136-37.

<sup>2541</sup> TF1-026, TT, 14 February 2008, pp. 3843-55 and pp. 3859-65. The witness testified that she was 14 years old when she was taken from Wellington with the seven girls by eight armed RUF rebels on 6 January 1999. They were brought to a living room in Calaba Town. The witness was raped by four RUF rebels. RUF CO Rocky was in command of the rebels. Thereafter, the witness moved with the retreating RUF forces from Wellington to Calaba Town to Waterloo then to Makeni.

<sup>2542</sup> Exh P-330, p. 23156 under heading Rape by Female Combatant.

<sup>2543</sup>

Exh. P-331, pp. 23194-95.

<sup>2544</sup> TF1-358, TT, 19 November 2008, pp. 20633-40, pp. 20649-50. See also Exhs. P-249 & P-250.

886. During the weeks the forces remained in and around Freetown and the Western Area, raping continued unabated.<sup>2545</sup> On or about 22 January 1999, TF1-023, then aged 16, was captured by a young armed rebel wearing combats in Consider Lane, Calaba Town. A rebel commander then had sex with her in Calaba Town without her consent. Thereafter, she moved with the troops and other captives on foot to Four Mile. For three weeks, the rebel commander (now her "rebel husband") continued to have sex with her at Four Mile without her consent. She was under his full control.<sup>2546</sup>

887. While some of the RUF and Junta troops entered Freetown, TF1-028 stayed behind at Ferry Junction with the remaining troops for two weeks. Fearing her escape, three RUF boys who spoke Liberian moved her to Blackhall Road. While at Blackhall Road, the junta and RUF rebels brought girls aged 12 to 13 to the house and raped them in her presence.<sup>2547</sup> The fighters ignored TF1-028's pleas not to rape the "small children."<sup>2548</sup>

888. [REDACTED]  
[REDACTED]<sup>2549</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>2550</sup>

889. During this period, Human Rights Watch and Physicians for Human Rights reported boys raping women old enough to be their grandmothers. Armed men were reported to be forcing brothers, fathers, and uncles to rape female family members. The victims identified the perpetrators of these acts as RUF and AFRC.<sup>2551</sup>

### State House

890. While based at State House,<sup>2552</sup> AFRC/RUF troops brought back young girls aged 14-16 captured in Freetown. A.B. Sesay saw commanders forcing young girls to have sexual intercourse with them. The SBUs of commanders also brought girls aged 8-9 to

<sup>2545</sup> Prosecution Pre-Trial Brief, para 110 & 113 & Amended Case Summary, para 25. See also Exh. P-328, p. 23000.

<sup>2546</sup> Exh. P-205A [REDACTED] AFRC Transcript of TF1-023, 9 and 10 March 2005), pp. 19320-22, 19335-42, pp. [REDACTED] See also Exh. P-330, p. 23143.

<sup>2547</sup> TF1-028, TT, 7 May 2008, pp. 9227-29.

<sup>2548</sup> TF1-028, TT, 7 May 2008, p. 9229.

<sup>2549</sup> [REDACTED]

<sup>2550</sup> [REDACTED]

<sup>2551</sup> Exh. P-73, pp. 00031557-58. See also Exh. P-330, p. 23142.

<sup>2552</sup> TF1-334, TT, 23 April 2008, pp. 8423. "State House" is location no. 2 on Exh. P-107.



State House and forced these girls to have sex with them. Moreover, the witness admitted to raping a young girl of 15/16 when he came to Freetown.<sup>2553</sup>

891. Witness Abubakar Mansaray also saw many women raped on the State House lawn during his four day detention there. The women were brought by rebel boys in the night and he heard the women cry in Krio, “A no de gri. Me nah small pikin” meaning “We not agree. We are small child. We are school-going girls.”<sup>2554</sup>

### Retreat

892. Around the time of the retreat, Akiatu Tholley was captured in Wellington and then raped by Captain James in Mammy Dumbuya church near Allen Town. Captain James and other rebels also raped many small girls at this church. Some were stabbed to death by the rebels with their bayonets for refusing to be raped and others beaten.<sup>2555</sup>
893. Some of the retreating forces settled in Benguema for a month. During this time, many young girls some as young as 8 were amongst the captured civilians with the forces. They were under the full control of the forces and were forced to have sexual intercourse with the fighters. SBUs also forcibly had sexual intercourse with the girls aged 8.<sup>2556</sup>
894. TF1-029, then aged 16 years old, moved with Major Arif and his mixed SLA and RUF forces from Calaba town to Benguema. The witness was raped at both locations by Major Arif ten times. Other abducted girls told the witness they also were raped in Calaba Town and Benguema. The SLAs and RUF told her friend that they had the right to rape these girls after abducting them.<sup>2557</sup>

<sup>2553</sup> TF1-334, TTs, 22 April 2008, pp 8289-91 & 29 April p. 8866.

<sup>2554</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20427-34. The witness was captured by rebels around 8 January 1999 who spoke Liberian English. He was taken to State House and held with 50 other civilians. See also Exh. P-73, p. 00031566.

<sup>2555</sup> TF1-085, TTs, 23 October 2008, pp. 19172-85, 27 October 2008, pp. 19192-96, 19205-07, 19277-79. The rebels who captured TF1-085 included Gold Teeth, a senior fighter and Daramy. Captain James said he was part of the Liberian war right up to the time he joined the rebels. See also TF1-334, TT, 24 April 2008, pp. 8440. “Wellington” is location no. 1 on Exh. P-109.

<sup>2556</sup> TF1-334, TTs, 23 April 2008, pp. 8392-95 & 24 April 2008, pp. 8440. “Benguema” is location no. 6 on Exh. P-109.

<sup>2557</sup> Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19415-24 & 19435-36. See also Exh. P-215 (AFRC Transcript of TF1-227, 11 April 2005), pp. 20838-40 & 75. The witness was captured around 23 January 1999 at Kola Tree and taken by the rebels during their retreat to Benguema in February. Commanders present in Benguema included AFRC Brigadier Five-Five as the high commander, RUF Rambo and Gunboot. A 16/17 year school-girl was raped and killed by Gunboot in Benguema. See further TF1-334, TT, 24 April 2008, p. 8440. “Calaba Town” is location no. 3 on Exh. P-109.

**COUNT 5: SEXUAL SLAVERY****General**

895. The evidence proves beyond a reasonable doubt the Accused's guilt in respect of Count 5 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>2558</sup>

896. Sexual slavery involved the abduction of women and girls and holding them in captivity as sex slaves. These women were often referred to as "wives," "bush wives," "jungle wives" or "rebel wives."<sup>2559</sup> The victims were expected to carry out the traditional functions of a wife and more. A wife carried loads on her head; gratified her "husband's" sexual wishes without question; cooked and did his laundry.<sup>2560</sup> Moreover, she would be severely punished for refusing to perform her conjugal duties or if found to be unfaithful to him.<sup>2561</sup>

897. In the vast majority of cases, the victims had no option to refuse the "marriage." Rather, an atmosphere of coercion generally prevailed, characterised by the use of violence or the threat of violence by the Indictment Perpetrators to force their victims into submission.<sup>2562</sup> [REDACTED]

[REDACTED]

<sup>2558</sup> Indictment, paras. 14-17; Pre-Trial Brief, paras. 7, 34, 75, 76, 96, 99, 103, 110, 113; Amended Case Summary, para 25.

<sup>2559</sup> Exh. P-80, p. 00012393, para. 36. See also Exh. P-43, p. 5, p 23, Section X & p. 24. See further Exh. P-366, p. 22799 under heading b. Disappearance. See also Exh. P-331, p. 23194.

<sup>2560</sup> TF1-334, TTs, 21 April 2008, pp. 8103-11; 23 April 2008, pp. 8393, 8406; 24 April 2008, pp. 8444, 8465-8469. Around July 1998, girls captured in Karina were handed over to Five-Five who distributed them to the commanders as wives. The girls were used to satisfy sexual needs in the jungle and to cook. Young girls captured in Freetown continued to be used as wives in Gberibana and Newton outside Freetown around April/May 1999. See also TF1-085, TT, 27 October 2008, pp. 19201-03. The witness was in Masiaka in 1999 with Captain James, her "rebel husband" who had several wives. See further TF1-360, TT, 6 February 2008, p. 3252. The witness testified that during the retreat from Freetown, abducted women were used as wives by the groups. See further Exh. P-73, p. 00031557, para 2 & Exh. P-330, p. 23158.

<sup>2561</sup> TF1-334, TT, 21 April 2008, TT, pp. 8106-11. At Camp Rosos and Colonel Eddie Town, a Manny Queen was elected to investigate complaints against women. Punishment included a beating and being locked inside a box.

<sup>2562</sup> See para. 877 of Count 4. See also TF1-314, TT, 20 October 2008, pp. 18685 & 18698: "They did not go to perform marriage rites anywhere. They would just capture them and bring them and consider them to be their wives and the women in return would do everything to them just like husband and wife...they would just use you - misuse you and then they would dump you. Any one of them could just come and do whatever he wanted to do you."

[REDACTED]<sup>2563</sup>

898. The subjugation of women and concomitant reign of terror was instilled in numerous ways. The Indictment Perpetrators instilled fear in their “wives” by telling them their families would not take them back, that they who would be blamed for what happened to them.<sup>2564</sup> Indeed, the practice of creating bush wives was not subject to customary marital practice, thus creating a sense of social stigma for the victims. The Indictment Perpetrators also terrorized their “wives” by beating or killing women that did not consent to them and in some cases ordered armed guards to prevent their escape. In other instances, women were forced to choose between being the “wife” of one commander, which carried the benefits of food and protection, or risk being sexually used by multiple combatants.<sup>2565</sup> The insidious nature of sexual slavery made it difficult to escape from, demonstrating the potency of its terror.

899. The Indictment Perpetrators’ practice of using women as sex slaves was accepted, open and endemic.<sup>2566</sup> Senior commanders enjoyed priority over lower ranking subordinates in their choice of the captured women assigned as wives. In addition, combatants traded assigned women amongst themselves.<sup>2567</sup> According to one former commander, “the SBUs also used women as wives, having sexual intercourse with them. The girls were from the ages of 8 and above.”<sup>2568</sup> Those girls not assigned to a single husband were called “government women” and were, therefore, free for any other person.<sup>2569</sup> Issa Sesay admitted that the RUF including senior commanders captured women including married women and forcibly took them as wives. This practice operated

<sup>2563</sup> [REDACTED]

<sup>2564</sup> Exh. P-330, p. 23159

<sup>2565</sup> See this Section para. 915.

<sup>2566</sup> Exh. P-296, p. 21858. See also Sexual Violence Overview above.

<sup>2567</sup> TF1-532, TT, 31 March 2008, pp. 6207. See also TF1-174, TT, 28 January 2009, pp. 23782-83. On capturing women, the adult commander chose the most beautiful girl first. The others girls were taken by the lower ranks.

<sup>2568</sup> TF1-334, TT, 18 April 2008, pp. 8006-08. See also para. 866 of Count 4. See further TF1-174, TT, 28 January 2009, pp. 23783-84 & [REDACTED]

<sup>2569</sup> TF1-174, TT, 28 January 2009, pp. 23782-86.

before 1997 in the different jungles.<sup>2570</sup> However, as set out below, the wealth of evidence establishes that this practice continued until the end of the Indictment Period.

900. TF1-174 worked with the Interim Care centres in Makeni, Port Loko and Lungi. During which time he received girls abducted from other districts including Kailahun. These girls were raped and used by commanders as wives to satisfy their sexual desires. These girls were unmarried and they were captives.<sup>2571</sup> The practice of abducting such girls for sexual slavery had become widespread among rebel forces, reaching the highest echelons of rebel command. One girl, aged 14 to 15, was honoured by the boys and girls at the centre because she was the wife of Issa Sesay. She was referred to “Dis na komanda in yon” meaning “this one it was the lady for such-and-such a commander.”<sup>2572</sup>

### Kono District

901. The AFRC/RUF abducted an unknown number of civilian women and girls from various locations within Kono District, or brought them to the District from other parts of Sierra Leone, and used them as sex slaves between about 1 February 1998 and 31 December 1998.<sup>2573</sup> The locations in Kono specifically mentioned in Count 5 are best understood in the context of the period following the Intervention and the forces’ settlement in the District.<sup>2574</sup>
902. Following the Junta’s removal from power, the retreating troops captured many women and young girls in Freetown and also while *en route* to Kono District. Those captured aged from about 8 to 20 were under the full control of junior and senior SLA and RUF

<sup>2570</sup> DCT-172, TT, 16 August 2010, pp. 46320, 46386-89 & 5 July 2010, p. 43590. See also TF1-174, TT, 28 January 2009, pp. 23783-84. See further [REDACTED]. See further TF1-026, 14 February 2008, TT, pp. 3843, 3873-76 & 3883. The witness was captured from Wellington in Freetown in January 1999 and sent to Buedu for training by Issa Sesay. Thereafter, she and 16 other girls were handed over to Brigadier Issa by Sam Bockarie and stayed in Makeni for two months. Each girl was given as a wife to the RUF boys on Issa’s order and so without consent. The witness had to cook, launder and have sex with her RUF rebel husband [REDACTED]. She did not like sleeping with him but for her safety, agreed to do so. She was 14 at the time. She became pregnant, and delivered her baby at 15. She spent nine months in total in rebel captivity.

<sup>2571</sup> TF1-174, TT, 28 January 2009, pp. 23779-81 & 23789-92. 127 girls aged 13 to 20 were received at the Makeni centre in April 2001. They were the wives of RUF commanders from the time the RUF controlled Makeni until 2001. Some of the girls came with babies or were pregnant when they arrived. RUF commanders came to the centre demanding their wives back. Some girls would follow these commanders only to return later.

<sup>2572</sup> TF1-174, TT, 28 January 2009, p. 23778. See also [REDACTED]. See also Exh. P-205A [REDACTED] (AFRC Transcript of TF1-023, 9 March 2005), pp. 19346-47.

<sup>2573</sup> Indictment, para. 15.

<sup>2574</sup> Including during Operation No Living Thing.

commanders, who forced the victims to become wives, perform domestic chores for them, and have sexual intercourse.<sup>2575</sup>

903. The retreating AFRC/RUF forces continued capturing women in Koidu Town and the surrounding villages in Kono District to be wives. Captured women were often institutionalized in sexual slavery, where an apparatus of terror made them the powerless subjects of their rebel commanders. The commonality of this practice is best captured by Denis Koker who states, “[i]t was like you would serve yourself tea to drink.”<sup>2576</sup> Women were commoditized en masse, reduced to mere objects.
904. Between March to June 1998, women and girls were forced to become wives to fighters at the rebel headquarters in Masingbi Road, Koidu Town, at Superman’s base on Dabundeh Street and in other areas in the District including Yengema, Bumpe, Tombodu, Jagbwema Fiamu.<sup>2577</sup>
905. A.B. Sesay was with the fighting force that captured Koidu Town. He captured a 15/16 year old girl in Kono who became his wife although they did not marry. Sesay testified that she was forced to have sex with him as she was his captive and under his command. Other commanders including junior commanders also had wives they did not marry. The wives were forced to have sex with their husbands and give birth to their children. In addition, the wives were obliged to cook, pound rice and do laundry.<sup>2578</sup> The terror inflicted upon these women controlled much of their lives, not only disenfranchising them from their sexual autonomy, but further subjugating them to daily chores and responsibilities.
906. At a compound in Koidu Town, TF1-189 was used as a “wife” by three rebels from about 12 March until August 1998 and was forced to have sexual intercourse with her rebel “husbands.” Five girls captured from around Kono District were also used as wives and forced to have sex with the rebels. In addition, the witness and five girls cooked and pounded husk rice for the rebels. TF1-189 did not consent to her duties as a wife but did not explicitly refuse for fear of the consequences. “I was afraid,” the witness explained, “I was afraid not to be killed.” No one was punished for using her as

<sup>2575</sup> TF1-334, TT, 18 April 2008, pp. 8006-08. TF1-577, TT, 5 June 2008, pp. 11148-50.

<sup>2576</sup> TF1-114, TT, 15 January 2008, pp. 1223, 1236, 1244-45.

<sup>2577</sup> TF1-334, TTs, 18 April 2008, pp. 8006-07, 21 April 2008, pp. 8064-65 & 29 April 2008, pp. 8865-66.

<sup>2578</sup> TF1-334, TTs, 18 April 2008, pp. 8006-07, 21 April 2008, 8064-65 & 29 April 2008, pp. 8865-66. See further TF1-375, TT, 23 June 2008, pp. 12515-17, 12520-23 and 24 June 2008, TT, pp. 12601-12603.

a wife.<sup>2579</sup> Indeed, the impunity of those who terrorized women and used them as sex slaves instilled fear in these victims.

907. Finda Gbamanja was taken as a wife by Sergeant Foday, one of Superman's boys in 1998, and lived at his house close to Opera in Koidu Town. He had sex with her every night. She did not volunteer to have sex with him but had no option. She was also forced to perform domestic chores. When ECOMOG attacked Koidu Town, she moved with Sergeant Foday to Superman Ground where she continued to be used as a wife from March to June 1998 and thereafter at "Mamie's" house.<sup>2580</sup>
908. Rebecca was one of the women held captive in Wonedu and used as a sex slave. The witness Teh heard the women scream, "Do you think this is the reason why you captured me? You haven't married me, now you want to use me as your wife."<sup>2581</sup>
909. When the forces retreated to AFRC and/or RUF camps such as Superman Ground, Guinea Highway and PC Ground, women captives held there were used as wives. The forced unions were not marked by any ceremony. The women were used sexually and for domestic chores by the RUF against their will.<sup>2582</sup> Isaac Mongor explained there was a hierarchy in relation to the selection of a particular woman as a wife - if a lieutenant and a colonel wanted the same woman as wife, the junior gave her up.<sup>2583</sup> In effect, women were bartered as battlefield commodities.
910. At PC Ground, women were used as "wives" by the combatants and so slept with and worked for them - "...just like a woman would work for her husband in the home." Some wives were beaten. Others, if lucky, were provided with food, clothes or shoes by the combatants. Small girls who were captured stayed with combatants and when old enough became their wives.<sup>2584</sup> Thus from a young age, girls were institutionalised into sexual slavery by the surrounding environment of terror that enabled it.

<sup>2579</sup> TF1-189, TT, 17 September 2008, pp. 16512-20. [REDACTED]

See further [REDACTED] above.

See also para. 864

<sup>2580</sup> TF1-303, TTs, 28 January 2008, pp. 23838; 29 January 2009, pp. 23850-68, 23899. See also para. 872 above.

<sup>2581</sup> TF1-015, TT, 8 January 2008, pp. 683-84, 704-705 and 721. The witness was captured from Tongoro bush in April 1998. He was taken to Wonedu by CO Rocky, an RUF commander. Wonedu was Rocky's deployment area. The witness met civilians under captivity in Wonedu. See also para. 869 of Count 4.

<sup>2582</sup> TF1-375, TT, 23 June 2008, pp. 12515-17, 12520-23 and 24 June 2008, TT, pp. 12601-12602.

<sup>2583</sup> TF1-532, TT, 11 March 2008, pp. 5762-66. See also TF1-334, TT, 21 April 2008, pp. 8064-65.

<sup>2584</sup> TF1-584, TT, 18 June 2008, pp. 12160 and 12194-98. The witness arrived at PC Ground in March 1998.

911. The forces were also deployed in other camps. Locations included Sewafe Bypass, Yomandu, Tombodu, Gandorhun Highway and Banya Ground, a sub-camp to Superman Ground.<sup>2585</sup> Within these various camps, the forces captured civilians during missions. The women became their “bush wives.” The RUF joint security unit kept records of those captured. Exhibit P-51 records the names of the AFRC/RUF officers against women under their full control, illustrating the extent to which sexual slavery was an accustomed practice among rebels. This included women from Banya Ground and along the Guinea/Sierra Leone Highway. The women were wives to these officers. Sia Cablessey was given to Major Rocky, a RUF fighter from Liberia for the purposes of “domestic work and hard labour and forced marriage.”<sup>2586</sup>

### **Kailahun District**

912. The Indictment Perpetrators, between about 30 November 1996 and about 18 January 2002, abducted many victims from other areas of Sierra Leone, brought them to locations throughout this District, and used them as sex slaves.<sup>2587</sup> The sexual slavery which occurred throughout Kailahun District is best understood in the context of the District’s role as an RUF stronghold throughout the conflict.
913. Following the Intervention, returning combatants took many captured women and girls to Kailahun.<sup>2588</sup> The women were distributed by the G5 to commanders or soldiers and were expected to work for and have sex with them. The women had little choice in the matter.<sup>2589</sup> The presence of specific personnel to organize and administer sexual slavery illustrates its acceptance and permanence in the rebel ranks.
914. Buedu was the AFRC/RUF headquarters from about February 1998 to 2000. During this time, the RUF captured girls aged 15/16 and mid-20s during combat missions.

[REDACTED]

[REDACTED]<sup>2590</sup>

<sup>2585</sup> TF1-360, TT, 5 February 2008, pp. 3112-15, 3131. The witness testified that the forces were also deployed in other camps around Superman Ground including at Sewafe Bypass, Yomandu, Tombodu, Gandorhun Highway and Banya Ground, a sub-camp to Superman Ground. See also TF1-584, TT, 18 June 2008, pp. 12176-82 and Exh. P-146.

<sup>2586</sup> TF1-360, TT, 5 February 2008, pp. 3115-34 and 3157.

<sup>2587</sup> Indictment, para. 16.

<sup>2588</sup>

[REDACTED] See also TF1-330, TT, 20 February 2008, p. 4294.

<sup>2589</sup> TF1-577, TT, 5 June 2008, pp. 11148-50.

<sup>2590</sup>

[REDACTED]

915. Edna Bangura, a sex slave in Buedu from 1994 to 1998, testified to the widespread practice of rape as “wives” to the rebels from 1994 to 1998 in Buedu, which she and other abducted women endured. She testified that life for these women was difficult.<sup>2591</sup> They did not have any rights. There were no formalities in terms of marriage. She did not witness an incident where a man told a woman that, “I want you to stay with me as my wife” and that woman refused because, “it was only when they were in care of a man that you would be secure and that things would be a bit nice for you.”<sup>2592</sup> The reality of “agreeing” to become the wife of a combatant offered some protection, rather than being left to be kicked around and freely “used sexually” by different RUF and AFRC soldiers “like a football.”<sup>2593</sup> This was perhaps the most insidious form of terror rebels used, forcing women to choose sexual slavery as a means of survival.

916. [REDACTED]  
[REDACTED]<sup>2594</sup> Isaac Mongor testified that in Kailahun District, which the RUF occupied in 1998, women were turned into wives. The witness explained that as wives, these women had sex with the gunman who captured them. The women did not have a choice as they were under a gunman’s sole control. To protect their lives, the women would not refuse.<sup>2595</sup>

917. TF1-189 was abducted by rebels in Kono in February 1998. In August, she was taken to Kailahun Town with hundreds of other civilians and forced to live at RUF commander Gogomeh’s house with four other females aged 12 to 25, also abducted from around Kono District. They were used as wives by the rebels, i.e. they had sex with the rebels and cooked and washed for them. TF1-189 was used as a wife by an

<sup>2591</sup> TF1-314, TT, 20 October 2008, pp. 18671-88. At the aged of 10, TF1-314 was captured by three rebels in Masingbi in 1994. She remained in Buedu until December 1998, fearing that if she were to escape, she would be eaten by Kamajors or killed by the rebels themselves. At age 11, she was raped by rebel CO Ray. Thereafter, he regarded her as his “wife” and she gave birth to his child (TT, 20 October 2008, pp. 18671-88). See also Exh. P-330, pp. 23143-45: M.M. was only eleven when she was abducted in Koidu during the dry season in 1994. She was raped vaginally and anally by seven child combatants on the way to Kailahun. Other rebels and civilians saw her being raped but were too afraid to help.

<sup>2592</sup> TF1-314, TT, 20 October 2008, pp. 18677- 88.

<sup>2593</sup> TF1-045, TT, 13 November 2008, pp. 20206-07. See also TF1-028 who corroborates TF1-045’s assessment of the fate of captured women who were left “unprotected”: around the time of the Intervention in Mandaha girls and women brought from other villages were raped continuously in the street by the junta; in Rosos over a seven month period, the witness and her sisters were continuously raped by junta men (TT, 7 May 2008, pp. 9136, 9182-85, 9195-01). See also para. 877 of Count 4.

<sup>2594</sup> [REDACTED]. See also para. 879 of Count 4.

<sup>2595</sup> TF1-532, TT, 31 March 2008, pp. 6208 and 11 March 2008, pp. 5762-63.



RUF rebel until September 1998. She did not consent to be a wife but did not refuse for fear of being killed.<sup>2596</sup>

918. Captured women had ample reason to fear their rebel “husbands,” for whom it was common practice to beat their “wives” for refusing to have sex with them. Commanders came with crying women to the Military Police Station in Buedu. They said the women were indisciplined and requested they be detained for ‘overlooking’ them. One such instance was witnessed by Dennis Koker, the MP Adjutant in Kailahun District between 1998 and 1999. He testified that one girl abducted from Kono was stripped to her underpants and given fifty lashes with a long cable made from vehicle tyre. The girl said RUF Major Victor Kallon had captured her in Kono and turned her into his wife. When she refused to have sex with him, he beat her.<sup>2597</sup> Such beatings were part and parcel of the rebel’s reign of terror.

### **Freetown and Western Area**

919. Sexual slavery occurred between about 21 December 1998 and about 28 February 1999 throughout Freetown and the Western Area in the context of the multifaceted attack in Sierra Leone which culminated in the Freetown Invasion.<sup>2598</sup> During the weeks that the AFRC/RUF fighters remained in and around Freetown and the Western Area, they engaged in a campaign of terror against civilians using an unknown number of abducted women and girls as sex slaves.<sup>2599</sup> According to one 15-year-old girl, the rebels announced during the Freetown Invasion that “we are coming for young girls...for virgins, even if they tie their heads like old grandmothers, we will find them.”<sup>2600</sup>

### **The advance to Freetown & Retreat**

920. As the troops advanced to Freetown, they captured girls from Kono. The girls were under the full control of the troops and became their “jungle wives,” cooked, pounded rice and carried loads during patrols for the troops. The troops forcibly used the girls

<sup>2596</sup> TF1-189, TT, 17 September 2008, pp. 16516-23 [REDACTED]

See also para. 864 of Count 4. See further TF1-303, TT, 29 January 2009, pp. 23961-62.

<sup>2597</sup> TF1-114, TT, 15 January 2008, pp. 1260. See also pp. 1273-76.

<sup>2598</sup> See Section IV above.

<sup>2599</sup> Indictment, para. 17; Prosecution Pre-Trial Brief, para 110 & 113 & Amended case Summary para 25. See also Exh. P-328, p. 23001; Exh. P-331, p. 23194, last para; [REDACTED]; Dufka, TT, 21 January 2008, p. 1798 (Girls between 13-16 years old were rounded up and were then taken to rebel bases throughout Freetown where they were subject to “repeated and often brutal forms of sexual abuse including individual and gang rape and sexual slavery”).

<sup>2600</sup> Exh. P-330, p. 23143.

for sexual intercourse. When the troops retreated to Benguema, their jungle wives moved with them. Some commanders had three wives. The wives were strictly monitored by their commander husbands. Some of the SBUs used captured girls from the age of 8 as wives. The girls were forced to have sexual intercourse with the SBUs and cooked and laundered for the SBUs.<sup>2601</sup>

921. As the invading AFRC/ RUF forces retreated from the city in late January 1999, TF1-029 was abducted by Major Arif, an SLA soldier, and taken to Calaba Town. Major Arif took her as his wife and forced her to have sex with him. Two weeks later she went to Benguema with Major Arif where he continued to use her sexually until 10 March 1999. Other female captives in Benguema were also used sexually by the SLAs and the RUF.<sup>2602</sup>

922. TF1-023 was 16 when captured and handed over for marriage to a rebel commander in Calaba Town. She was not asked for her consent and accepted because 'they' had the say. There was no marriage ceremony and she was forced to have sex with him. The witness continued to be his wife at Lumpa for three weeks. She had sex frequently with him. Again she was not asked for her consent. Her rebel husband prevented her from escaping assigning her an armed escort. This constant surveillance created an inescapable environment of fear. At Lumpa, the witness saw 10 women whom she knew. They too and others had been captured and married to rebel lieutenants and soldiers.<sup>2603</sup>

923. As the rebel forces retreated, Akiatu Tholley, an abductee from Wellington, moved with them. This witness moved from Wellington to Allen Town where she was raped by Captain James.<sup>2604</sup> Captain James' other "wives" moved with this group.<sup>2605</sup> The witness then moved with her abductor, Captain James, and the rebel force from Allen Town to Waterloo, then to an unknown village before settling in Masiaka.<sup>2606</sup> The witness confirmed that after the rape in the church in Allen Town Captain James continued to have sex with her against her will, the inference being that these continued

<sup>2601</sup> TF1-334, TT, 23 April 2008, pp. 8391-95. See also TF1-360, TT, 6 February 2008, p. 3252: Rebels abducted civilian women and used women as wives during the retreat from Freetown to carry loads.

<sup>2602</sup> Exh. P-206 (RUF Testimony of TF1-029, 28 November 2005), pp. 19415-23. See also para. 894 of Count 4.

<sup>2603</sup> Exh. P-205A [REDACTED] (AFRC Testimony of TF1-023, 9 and 10 March 2005), pp. 19320-22, 19335-42, pp. [REDACTED]

<sup>2604</sup> TF1-085, TT, 23 October 2008, pp. 19178, 19182-84. See also para. 892 of Count 4.

<sup>2605</sup> *Ibid.*

<sup>2606</sup> TF1-085, TT, 27 October 2008, pp. 19196-99.

rapes occurred at the various locations the witness passed through.<sup>2607</sup> Captain James, her “rebel husband” had several wives - five had been captured in Freetown and others from Kono.<sup>2608</sup>

## COUNT 6: OUTRAGES UPON PERSONAL DIGNITY

### General

924. The evidence proves beyond a reasonable doubt the Accused’s guilt in respect of Count 6 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>2609</sup>
925. Throughout the conflict, the RUF and AFRC/RUF<sup>2610</sup> used widespread outrages upon personal dignity as potent instruments of civilian humiliation, degradation and terrorism.<sup>2611</sup> These included rape; sexual slavery; forced marriage, forced pregnancy, forced abortion and the removal of foetuses from the womb; forced incest; genital and sexual mutilation; forced undressing; insertion of foreign objects into genital openings and/or anus; forced complicity in a family member’s sexual abuse; and leaving infants without care after abusing, sometimes killing, their guardians.
926. Furthermore, the tactics used by the Indictment Perpetrators amplified the humiliation, degradation, and terror which accompany sexual violence.<sup>2612</sup> The age of both perpetrators and victims,<sup>2613</sup> gang rape, public abuse, and outrages against pregnant and breast-feeding women extirpated the social fabric of victims, knowingly targeting the bonds of family and community.<sup>2614</sup> Afterwards, the humiliation and degradation already inflicted was often further intensified by additional beatings, mutilations, and other abuse. Moreover, these outrages upon personal dignity frequently resulted in

<sup>2607</sup> TF1-085, TT, 27 October 2008, p. 19203.

<sup>2608</sup> TF1-085, TT, 27 October 2008, pp. 19198-09 & 19277-79. The witness testified in Masiaka there were more than 300 abducted women and girls. Some of them had been raped by the rebels. She explained if a commander or junior rebel captured a woman and raped her he would call her his wife.

<sup>2609</sup> Indictment, paras. 14-17; Pre-Trial Brief, paras. 7, 34, 75, 76, 96, 99, 103, 110, 113; Amended Case Summary, para. 25.

<sup>2610</sup> Exh. P-333, pp. 23227 & 23274.

<sup>2611</sup> Exh. P-309, p. 21484; Exh. P-333, pp. 23227-23228.

<sup>2612</sup> These tactics were intentionally employed. See Exh. P-309, p. 21484.

<sup>2613</sup> See *Prosecutor v. Kunarac*, IT-96-23-T & IT-96-23/1-T, Judgement, para. 974 (considering the age of the victims of outrages upon personal dignity as an aggravating factor: the fact that the defendant’s “offences were committed against particularly vulnerable and defenceless girls and a woman is a matter considered in aggravation”).

<sup>2614</sup> TF1-358, TT, 19 November 2008, pp. 20649-20650; Exh. P-365, p. 22758.

permanent medical, mental and social problems: “real and lasting suffering” for the victim.<sup>2615</sup>

927. The age of sexual violence victims and/or perpetrators was a common way in which the rebels amplified victim humiliation and degradation.<sup>2616</sup> “I’m old and I have stopped having sex,” a white haired woman protested when four rebels, one only fifteen years old, accosted her in Petifu, Port Loko. Yet, the rebels had “found one we want” and their commander acquiesced.<sup>2617</sup> “It was the war that brought [such] humiliation,” observed another woman raped by child combatants.<sup>2618</sup>

928. “Virgination,” or the rape of a virgin, was another tactic exploiting social customs relating to age.<sup>2619</sup> Female rebels and medical personnel frequently confirmed the girls’ virginity ensuring successful “virgination.”<sup>2620</sup> Rebels, including commanders and SBUs, raped and sexually enslaved children between the ages of eight and twenty.<sup>2621</sup> “Boys, enjoy yourselves” – one commander’s encouragement indicated the attitude of others such as Bazzy, Bomb Blast and Superman. Commanders did nothing to stop this victimization of children, often by other children.<sup>2622</sup>

929. In addition to the young and old, the rebels also outraged the dignity of pregnant and breast-feeding women.<sup>2623</sup> For example, rebel Umaro Kamara gave his four month pregnant “wife” the choice between her life and an abortion. After a rebel doctor gave her an injection and pills, she lost the baby.<sup>2624</sup> Meanwhile, a breast-feeding woman in

<sup>2615</sup> *Prosecutor v. Aleksovski*, IT-95-14/1-A, Appeals Judgement, 24 March 2000, para. 56 (“real and lasting suffering to the individual” is indicative that an act rises to the level of an outrage upon personal dignity”). See also RUF Trial Judgement, para. 176 (noting that, although a factor to be considered, “lasting suffering” is not required for an act to qualify as an outrage upon personal dignity).

<sup>2616</sup> e.g. TF1-143, TT, 5 May 2008, pp. 8970, 8979-8982 (when a twelve year old boy disobeyed an order to rape a woman old enough to be his grandmother in Koinadugu District, he was forced to lay out in the sun with his eyes open and was later forced to eat his rebel captor’s waste).

<sup>2617</sup> Exh. P-330, p. 23152.

<sup>2618</sup> Exh. P-330, p. 23152 (this forty-five year old woman was raped by four children between the ages of ten and twelve years of age in Port Loko District in November 1999).

<sup>2619</sup> The evidence of this practice referred to in section on Count 4 above is recalled. Exh. P-330, p. 23153; Exh. P-328, p. 23001; [REDACTED]

<sup>2620</sup> Exh. P-330, pp. 23143-23144.

<sup>2621</sup> TF1-334, TT, 18 April 2008, pp. 8006-08. See also Exh. P-330, pp. 23143-23144 & 23157.

<sup>2622</sup> TF1-334, TT, 18 April 2008, pp. 8006-08.

<sup>2623</sup> Exh. P-330, p. 23153-54: it was common in Sierra Leone for pregnant women to “stop having sexual intercourse with their husbands once their pregnancy has been confirmed, to protect the fetus”... “[In] Sierra Leonean culture, women are not supposed to have sexual intercourse until their children have been weaned and can walk.”

<sup>2624</sup> Exh. P-330, p. 23156. See also, p. 23150: In other cases, it was the foetus, not the woman, that became the object of the rebels’ amusement. RUF Officers Danger and Cut Hand bet on the sex of a pregnant Koranko woman’s child: after shooting the woman and opening her belly, one of those officers won 100,000 leones; & p. 23150: A slightly disabled, pregnant woman was stabbed in the neck by rebels who had offered a group of

Mabang, Tonkolili District struggled to protect her baby from the rebels while being raped three to six times each day by more than thirty different AFRC/RUF rebels over the course of two to three weeks. Several times, she also had a pistol put into her vagina. “[Sometimes] I held my baby Hawanatu in my arms while they were raping me. When she cried they said they wanted to shoot her so I gave her the breast.”<sup>2625</sup> Later, a prolapsed uterus became her new embarrassment: “my vagina came out ... they provoked me and made fun of me. They said now my Kamajor husband will not be able to have sex with me.”<sup>2626</sup>

930. Gang rape and public abuse were methods of terror compounding victim humiliation and degradation.<sup>2627</sup> A 16-year-old Freetown student and “wife” to Colonel Jaja had an umbrella pushed inside her vagina twice while bystanders watched. The woman lay in the street for a few days, naked and bleeding.<sup>2628</sup> Bystanders and witnesses were too terrified to take action. Indeed, an 11-year-old girl raped by seven combatants aged fifteen to sixteen lamented that “civilians saw me being raped, but [they] were too afraid to protect me.”<sup>2629</sup>
931. Moreover, in order to further degrade and humiliate, the rebels effectively exploited the bonds of family and community.<sup>2630</sup> Men were forced to rape members of their own families, while girls and women were often raped by rebels in front of their husbands, mothers, and fathers.<sup>2631</sup> A man’s 11-year-old daughter was forced to wash his genitals in Bumpah after he had public forced sex with his wife.<sup>2632</sup> The intended effect on

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civilians a choice between their lives or their money. After making a bet as to whether the woman carried a boy or girl, rebel Kill Man No Blood split open her belly and those who bet that she carried a boy won. The baby was thrown on the ground next to his mother and died soon after.

<sup>2625</sup> Exh. P-330, p. 23154.

<sup>2626</sup> Exh. P-330, p. 23154.

<sup>2627</sup> e.g. Exh. P-331, pp. 23196-23197. See also Exh. P-330, pp. 23149, 23143-23144, 23152 & 23154. See also

<sup>2628</sup> Exh. P-330, p. 23149.

<sup>2629</sup> Exh. P-330, p. 23145.

<sup>2630</sup> The evidence of rapes taking place in public referred to in section on Count 4 above is recalled. See also the examples in Exh. P-78, p. 12: civilians were forced to strip and rape family members. They were mutilated and amputated for resisting, women were raped by rebels in front of their husbands, and were subjected to other forms of sexual violence such as insertion of foreign objects into vaginas; Exh. P-332, pp. 23206-23207.

<sup>2631</sup> The evidence of rapes taking place in front of family members referred to in in section on Count 4 above is recalled. See also [REDACTED]; Exh. P-330, p. 23151; Exh. P-331, pp. 23194-23197.

<sup>2632</sup> Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18879 – 18881.

witnesses was no secret: rebels who gang-raped a girl in Koinadugu Town in September 1998 within hearing of her mother said they came to punish ungrateful civilians.<sup>2633</sup>

932. Rebels also targeted cultural mores such as nudity.<sup>2634</sup> [REDACTED]

[REDACTED]<sup>2635</sup> “I had all my dignity,” an elderly woman forced to publicly strip in Karina remarked. They were “not fit to see you naked, so I was not feeling fine.”<sup>2636</sup> The humiliation of forced public nudity was also used to further degrade those enslaved<sup>2637</sup> for use in the diamond pits.<sup>2638</sup>

933. Finally, sexual violence was often followed by further abuse and dishonour.<sup>2639</sup> For instance, a rebel commander burned a woman with hot charcoal after raping her.<sup>2640</sup> In addition to such abuse and mutilation, forced pregnancy was also common following brutal rapes and trauma. “My rebel husband ... warned me that if I tried to flush the baby out, he’d kill me.”<sup>2641</sup> Rebel doctors facilitated forced pregnancy: medical personnel were sometimes forbidden from performing abortions, giving birth control, or prescribing traditional herbal treatments.<sup>2642</sup>

934. In addition to being widespread across Sierra Leone and throughout the Indictment Period, the evidence proves beyond a reasonable doubt that outrages upon personal dignity were committed by the Indictment Perpetrators in the Districts specified in the Indictment for instances of sexual violence.<sup>2643</sup> This Chamber previously acknowledged that both rape and sexual slavery entail humiliation and degradation of

<sup>2633</sup> Exh. P-330, pp. 23145 & 23149.

<sup>2634</sup> e.g. TF1-334, TT, 21 April 2008, p. 8101; TF1-028, TT, 7 May 2008, pp. 9151-9154, 9136; witness ordered to “off-load” (meaning to undress); she was stripped and marched around town while being beaten with a cutlass; later she was tied together with her sister and sister-in-law – all three were naked.

<sup>2635</sup> [REDACTED]

<sup>2636</sup> TF1-028, TT, 7 May 2008, pp. 9151-9154; Junta rebels in Karina Town tied the stripped woman’s arms and beat her with a sword while parading her around town. See also Exh. P-309, pp. 21532-33 & Exh. P-330, p. 23151.

<sup>2637</sup> AFRC Trial Judgement, para. 719 acknowledging that “performing subservient acts” and “enduring the constant fear of being subjected to physical, mental or sexual violence” were outrages upon personal dignity.

<sup>2638</sup> TF1-045, TT, 12 November 2008, pp. 20154-20155.

<sup>2639</sup> e.g. TF1-358, TT, 19 November 2009, pp. 20647-20650; Exh. P-78, p. 9; Exh. P-330, p. 23153.

<sup>2640</sup> Exh. P-330, pp. 23152-23153; Dufka, TT, 21 January 2008, p. 1798.

<sup>2641</sup> Exh. P-330, pp. 23155-23156.

<sup>2642</sup> Exh. P-330, pp. 23155-23156.

<sup>2643</sup> Indictment, paras. 15-17.

personal dignity to a degree sufficient to satisfy the elements of Count 6.<sup>2644</sup> As cumulative convictions may be entered for crimes with materially distinct elements even if based on the same facts,<sup>2645</sup> the evidence of rape and sexual slavery set out in sections on Counts 4 and 5, *supra* is also evidence of outrages upon personal dignity and so relevant to Count 6. Therefore, the evidence referred to in these Sections are incorporated by reference as proof for Count 6. Additional outrages in violation of Article 2(e) of the Statute, which may not qualify as rape or sexual slavery, are set out below.<sup>2646</sup>

### **Kono District**

#### **Tombodu/Tumbodu, Superman Ground**

935. Outrages upon personal dignity were committed in Tombodu and Superman Ground. In Tombodu civilians were forced to strip naked before being amputated.<sup>2647</sup> At Superman Ground, a man who had tried to escape from the camp was recaptured, brought to the formation ground whereupon Peppe, one of Superman's boys, lacerated his testicles and then ordered the civilians to kill him. The civilians beat him to death.<sup>2648</sup>

#### **Various Other Locations in Kono District<sup>2649</sup>**

936. In Bomboafuidu, Abdul Rahman Tejan-Cole was unable to have forced sex with a civilian woman. The rebels reacted by slashing the private parts of the woman Cole was paired with in plain view of the other townspeople.<sup>2650</sup> Later, some civilians in Bomboafuidu were ordered to line up on the main road. Seven men, including Tejan-Cole were forced to have sex with seven women chosen by the rebels, two of whom he knew personally. One of the men who resisted this debasement was wounded in the buttocks with a bayonet.<sup>2651</sup>

<sup>2644</sup> AFRC Trial Judgement, paras. 718-719 & 1069.

<sup>2645</sup> AFRC Appeals Judgement, paras. 202-205; CDF Appeals Judgement, para. 220; RUF Trial Judgement, para. 1298.

<sup>2646</sup> See Section IX.A above regarding the evidence which can be considered for guilt of the Accused under Count 6.

<sup>2647</sup> TF1-210, TT, 30 October 2010, pp. 19592-616, 19671.

<sup>2648</sup> TF1-303, TT, 28 January 2009, p. 23837; 29 January 2009, pp. 23860, 23865, 23874-75.

<sup>2649</sup> Although these towns in Kono District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of outrages on personal dignity at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>2650</sup> TF1-192, TT, 15 February 2008, pp. 3972-3975.

<sup>2651</sup> Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), pp. 19682-19685; pp. 19725-19726; pp. 19735-19737. See also TF1-206, TT, 15 October 2008, p. 18445.

937. The bond between parent and child was also exploited in the bush outside Bakedu on 19 March 1998 when a woman's two children were forced to lay down on either side of her. "Come and lie down and we will sex you," the rebels ordered. The woman had already been stripped naked by the rebels; they then beat her. Even after their mother lost consciousness, her children were alert as others were abused and killed. When the soldiers left, her son touched her arm, untied her and woke her, "around her she saw many dead bodies and the damage that had been done."<sup>2652</sup>

938. [REDACTED]  
[REDACTED],<sup>2653</sup> had a candle held below his testicles before the townspeople. The rebels laughed as the sixty-year-old's scrotum was burned.<sup>2654</sup> All in [REDACTED] were victims of the campaign of terror. The family members of those sexually and publicly abused were humiliated and debased, their personal dignity outraged. As for the rape and mutilation victims themselves, the effects of the humiliation and degradation continue:

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>2655</sup>

### Kailahun District

939. In addition to rape and sexual slavery, other outrages upon personal dignity directed against civilians occurred in the RUF hub of Buedu for much of the Indictment Period.<sup>2656</sup> As the administrative centre, a quasi-judicial system was established in Kailahun. This judicial system exploited the humiliation and degradation resulting from forced public nudity: those brought to the police station were stripped naked and beaten upon arrival.<sup>2657</sup> Civilians held at the police station for purposes of forced labour were similarly stripped of their clothing – it was always easier to identify a prisoner

<sup>2652</sup> Exh. P-309, pp. 21489-21490.

<sup>2653</sup> [REDACTED]

<sup>2654</sup> TF1-189, TT, 17 September 2008, pp. 16504-16507.

<sup>2655</sup> [REDACTED]

<sup>2656</sup> See Sections on Counts 4 & 5 above.

<sup>2657</sup> TF1-114, TT, 15 January 2008, pp. 1273-1276



trying to escape if he was naked.<sup>2658</sup> Courts also punished civilian women with rape and beatings unless a commander stood up for them.<sup>2659</sup>

940. In Buedu, rebel police and courts similarly punished women for “overlooking” or disrespecting the rebels. One girl was stripped to her underwear and flogged fifty lashes with a cable like those used to tie a tarpaulin down. Her crime was refusing to have sex with a rebel. Sometimes as many as three rebels would simultaneously beat a victim.<sup>2660</sup>

941. In addition to the use of outrages upon dignity as a form of punishment, the social stigma attached to nudity was a means of shackling captive civilians to the rebels. More than 50 civilians were rounded up by Dennis Koker and other rebels in Dodo, Gelema and other towns and villages in Kailahun. They were stripped naked and tied upon abduction and were later kept in cells at the MP station in Buedu until they were needed for construction of an airfield. Without their clothing, captive civilians were more easily identified if they attempted escape.<sup>2661</sup>

## **IX.F. COUNTS 7 & 8: PHYSICAL VIOLENCE**

### **COUNT 7 - CRUEL TREATMENT: APPLICABLE LAW**

942. Trial Chamber I in the CDF Judgement held that, in addition to the contextual elements of violations of common article 3 and AP II pursuant to Article 3 of the Statute the elements of the offence of cruel treatment are as follows:

- (i) the occurrence of an act or omission;
- (ii) the act or omission caused serious mental or physical suffering or injury, or constituted a serious attack on human dignity, to a person not taking direct part in the hostilities; and
- (iii) the accused intended to cause serious mental or physical suffering or injury or a serious attack on human dignity or acted in the reasonable knowledge that this would likely occur.<sup>2662</sup>

<sup>2658</sup> TF1-114, 15 January 2008, p. 1269.

<sup>2659</sup> Exh. P-330, p. 23160.

<sup>2660</sup> TF1-114, TT, 15 January 2008, pp. 1273-1276.

<sup>2661</sup> TF1-114, TT, 15 January 2008, pp. 1266-1271.

<sup>2662</sup> CDF Trial Judgement, para. 156.

943. In terms of the acts or omissions that can constitute cruel treatment it is important to recall that the offence of cruel treatment performs a residual function, or in other words, acts as a residual category for a broad range of serious acts which are not otherwise enumerated in Article 3 of the Statute.<sup>2663</sup> In *Tadić* the ICTY Trial Chamber explained that “guidance is given by the form taken by Article 4 of Additional Protocol [II]...which provides that what is prohibited is: ‘violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment’ and that ‘these instances of cruel treatment, and the inclusion of ‘any form of corporal punishment’ demonstrate that no narrow or special meaning is there being given to the phrase ‘cruel treatment’”.<sup>2664</sup> It is therefore submitted that cruel treatment under Article 3 of the Statute includes act of torture and mutilation and further extends to “all acts or omissions which cause serious mental or physical suffering or injury or constitute a serious attack on human dignity.”<sup>2665</sup>

#### **COUNT 8 - OTHER INHUMANE ACTS: APPLICABLE LAW**

944. Trial Chamber II, in the AFRC Judgement held that in addition to the contextual elements of Crimes against Humanity, the elements of other inhumane acts are as follows:

- (i) the perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act;
- (ii) the act was of a gravity similar to the acts referred to in Article 2(a) to (h) of the Statute; and
- (iii) the perpetrator was aware of the factual circumstances that established the character of the gravity of the act.<sup>2666</sup>

945. In the CDF Judgement, Trial Chamber I concluded that the elements of “cruel treatment” and “other inhumane acts” are essentially the same.<sup>2667</sup> It is therefore

<sup>2663</sup> *Čelebići* Trial Judgement, para. 552.

<sup>2664</sup> *Prosecutor. v. Tadić*, Trial Judgement, para. 726. The Trial Chamber described cruel treatment as a “general concept.” Further, note that, Article 3 a) of the Statute of the Special Court is drafted in exactly the same terms as Article 4 of Additional Protocol II.

<sup>2665</sup> *Čelebići* Trial Judgement paras. 443 and 552. Note that in the CDF Rule 98 Decision, in relation to torture as an example of cruel treatment, Trial Chamber I adopted the approach of the Trial Chamber of the ICTY in the *Čelebići* decision; confirming that acts which do not meet the purposive requirement for the offence of torture in Common Article 3, constitute cruel treatment.

<sup>2666</sup> AFRC Trial Judgement, para. 698.

submitted that the same acts which constitute “cruel treatment” also constitute “other inhumane acts.” In this regard, just as “cruel treatment” performs a residual function for offences not otherwise enunciated in Article 3 of the Statute, “other inhumane acts” operates as a residual category for a broad range of serious acts which are not otherwise enumerated in Article 2.<sup>2668</sup> Mutilation has been recognized as an “other inhumane act.”<sup>2669</sup> In relation to the second<sup>2670</sup> and third elements<sup>2671</sup> of the offence, the Prosecution relies upon the footnoted sources of law.

946. Additionally, Trial Chamber I has recognised that a third party could suffer serious mental harm by witnessing acts committed against others, particularly against family or friends, and that the accused may be held liable for causing serious mental harm to a third party who witnesses acts committed against others only where, at the time of the act, the accused had the intention to inflict serious mental suffering on the third party, or where the accused had reasonable knowledge that his act would likely cause serious mental suffering on the third party. To this effect, Trial Chamber I endorsed the view of the ICTR Trial Chamber in *Kayishema and Ruzindana* that “if at the time of the act, the accused was unaware of the third party bearing witness to his act, then he cannot be held responsible for the mental suffering of the third party.”<sup>2672</sup>

### **Mutilation:**

947. Trial Chamber II in the AFRC Judgement held that, in addition to the contextual elements of violations of common article 3 and of APII pursuant to Article 3 of the Statute, the crime of mutilation includes the following elements:
- (i) the perpetrator intentionally subjected the victim to mutilation, in particular by permanently disfiguring the victim, or by permanently disabling or removing an organ or appendage of the victim;

<sup>2667</sup> CDF Trial Judgement, para. 155, referring to *Kronjelic* Trial Judgement, para. 130, *Jelić* Trial Judgement, para. 52, *Simić, Tadić and Zarić* Trial Judgement, 17 October 2003, para. 74.

<sup>2668</sup> AFRC Trial Judgement, para. 697. CDF Trial Judgement, para. 149.

<sup>2669</sup> *Prosecutor v. Tadić*, IT-94-I-T, Opinion and Judgement, 7 May 1997, para. 729. In *Prosecutor v. Tadić* the Trial Chamber referred to Article 18(k) of the International Law Commission Draft Code, which specifically refers to mutilation as an example of an other inhumane act as a crime against humanity.

<sup>2670</sup> AFRC Trial Judgement, para. 699; RUF Trial Judgement, para. 169.

<sup>2671</sup> AFRC Trial Judgement, paragraph 700,

<sup>2672</sup> CDF Trial Judgement, para. 153, referring to *Kayishema and Ruzindana* Trial Judgement, para. 153; RUF Trial Judgement, para. 171.

(ii) the perpetrator's conduct was neither justified by the medical, dental or hospital treatment of the victim, nor carried out in the victim's interest.<sup>2673</sup>

948. The first element adopted by Trial Chamber II covers both the *actus reus* and the *mens rea* of the offence of mutilation. The *actus reus* of the offence is subjecting a person to mutilation. The phrase "in particular" signals that "permanently disfiguring the victim, permanently disabling or removing an organ or appendage of the victim" are illustrative examples of mutilation.<sup>2674</sup> The *mens rea* is stated as intent to subject the victim to mutilation. However, it is submitted that the Trial Chamber should preferably rephrase (or alternatively interpret) this provision, so as to require the prosecution to prove either that the perpetrator intended to subject the victim to mutilation, or that the perpetrator acted in the reasonable knowledge that mutilation was likely to occur. Such an approach is consistent with the *mens rea* applicable to many other of the offences in the Statute, including murder,<sup>2675</sup> and is also consistent with the delineation of the *mens rea* element of the offence in the ICC Statute.<sup>2676</sup>

#### COUNTS 7 & 8: PRESENTATION OF THE EVIDENCE IN THE BRIEF

949. As discussed above, forms of physical violence other than amputations, carvings and beatings may also be considered for guilt of the Accused under Counts 7 and 8 provided the act of physical violence satisfies the elements of the crime charged.<sup>2677</sup>

950. The evidence referred to in the following section on Counts 7 and 8 is proof of "cruel treatment" under Count 7 and also proof of "other inhumane acts" under Count 8 because of the personal circumstances of the victims and the consequences of the conduct.<sup>2678</sup> Of special note is the intentional public nature of these acts of physical violence, which compounded the mental harm of the civilians who were being

<sup>2673</sup> AFRC Trial Judgement, para. 724, referring to the "Elements of Crime for Article 8(2)(c)(i)-2 and 7(1)(f) of the Rome Statute of the International Criminal Court."

<sup>2674</sup> *ICC Elements of Crimes*, Roy. S. Lee, page 165, explaining in relation to Article 8(2)(c)(i)-2 that certain delegations had wanted to give further definition to the word mutilation and it was decided to explain it by reference to certain examples of mutilation and that "in particular" was intended to signal that the examples were illustrative examples only.

<sup>2675</sup> See the applicable law in relation to Unlawful Killings and the other crimes, above.

<sup>2676</sup> Article 30 of the ICC Statute provides that the general *mens rea* requirement applicable to all offences, including mutilation, is that the perpetrator intended to mutilate the victim or is aware that mutilation will occur in the ordinary course of events.

<sup>2677</sup> For a full discussion, see Section IX.A above.

<sup>2678</sup> Cumulative convictions may be entered for crimes with materially distinct elements even if based on the same facts (AFRC Appeals Judgement, para. 205; RUF Appeals Judgement, paras. 1197-98).

victimized and of those who were forced to watch helplessly as family, friends and even strangers were subjected to physical violence by the Indictment Perpetrators.

951. The evidence referred to in the section below on Count 8 alone relates to acts of physical violence which are proof of “other inhumane acts” only.

#### COUNTS 7 & 8: EVIDENCE

**A. ...Then my child screamed and said, “Soldier, don’t cut off my father’s hand” and they said the child was causing noise. [. . .]**

**Q. Now just so we’re clear when you say your child was causing noise, who were you speaking of?**

**A. Karim.**

**Q. And what did the soldiers say about Karim making the noise?**

**A. He said they should... loosen him from the mother’s back.**

**Q. Now at that point they had chopped one of your hands. Is that correct?**

**A. Yes.**

**Q. And what did you say to them then?**

**A. I said, “Instead of you chopping off his hand then chop both mine.”**

**Q. How old was Karim then?**

**A. Four years.**

*- Double Amputee Alusine Conteh, TT, 30 January 2009, pp. 24029-030*

#### General

952. The evidence proves beyond a reasonable doubt the Accused’s guilt in respect of Counts 7 and 8 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>2679</sup>

953. The Indictment Perpetrators inflicted physical violence on civilians throughout the Sierra Leone conflict<sup>2680</sup> which was often accompanied by other atrocities such as sexual violence<sup>2681</sup> and enslavement,<sup>2682</sup> and frequently resulted in killings.<sup>2683</sup>

<sup>2679</sup> Indictment, paras. 19-21; Amended Case Summary, para. 26; Pre-Trial Brief paras. 75, 77, 80, 96-100, 110, 112.

<sup>2680</sup> See for example TF1-215, 14 October 2008, pp. 18300-08: after the boss instructed Junta 2 to chop off the hands of the civilians, the witness and eight other civilians, including a six-year-old girl and a woman who was eight months pregnant, had their hands amputated in Kondembaia, Koinadugu District, in May 1998 (see the evidence of TF1-375, TT, 23 June 2008, pp. 12544-46, indicating civilians under Komba Gbundema of the RUF were called Junta 2s); TF1-334, TT, 21 April 2008, pp. 8092-95, 8103: In an attack on Karina led by Tito in Bombali District in July 1998, the witness saw RUF/SLA members Osman Sesay and Money Milk amputating people; TF1-358, TT, 19 November 2008, pp. 20609-11, 20623-25.

<sup>2681</sup> See for example TF1-028, TT, 7 May 2008, pp. 9129, 9192, 9202-03, 9215: After the Intervention, a civilian called Mommie was shot in her buttocks because she resisted being raped by three junta men in Rosos, Bombali District; Exh. P-331, p. 23197: a 45-year-old woman attacked by RUF forces at her home in Lunsar before June 2000 was hit on her sides with the fighters’ guns for refusing to have intercourse with them.

<sup>2682</sup> See for example TF1-045, TT, 12 November 2008, pp. 20138-46: In Tongo, Kenema District in 1997, 600-700 civilians were forced to mine diamonds, guarded by RUF and AFRC armed fighters. If the civilians did not do the job properly, they were flogged; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14915-16, 14934, 14940: TF1-062 saw one of his workmen beaten for hiding and refusing to do government mining at

954. Perhaps the most well-known form of physical violence perpetrated against civilians during the Sierra Leone conflict was amputation. Dubbed by some as the “signature atrocity”<sup>2684</sup> of the conflict, purposeful amputation of fingers, hands, arms, and to a lesser extent, lips, ears and feet, instilled terror in civilians during the crime as well as afterward. Often during the perpetration, rebels mocked the civilians,<sup>2685</sup> played games,<sup>2686</sup> forced the civilians to laugh,<sup>2687</sup> or gave them “choices” such as asking if they preferred “long-sleeve” or “short-sleeve.”<sup>2688</sup> Sometimes the machetes being used by the rebels were so dull that it took several attempts to complete the amputation, prolonging the civilians’ torture.<sup>2689</sup>
955. The RUF amputated its first victim during Valentine Strasser’s regime in the early 1990s. In a surprise attack on Nomofomah in Kailahun District, the RUF captured an RSLF soldier, cut off both his hands, and sent him to the resident minister with a letter tied round his neck.<sup>2690</sup> This was the first of many such messages sent with amputees to

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Cyborg pit in August 1997 after AFRC/RUF under Bockarie entered Tonga; TF1-337, TT, 5 March 2008, pp. 5340, 5343-45, 5350-53 and 6 March 2008, pp. 5399-401: RUF overall mining commander Peleto said civilians were to be brought forcefully to mine in Kono. Anyone who resisted was to be beaten; those who continued to resist were to be killed. This occurred.

<sup>2683</sup> See for example TF1-028, TT, 7 May 2008, pp. 9154-59, 9164-65: After the Intervention, the witness was taken by six junta soldiers to the mosque in Karina, Bombali District, where she saw her uncle who had been hacked on his neck lying amongst the corpses saying “God is great.” The witness saw her other uncle ask the junta what his elder brother had done. The junta hacked him across his face, saying that was the answer, and her uncle died. The witness said, “Our family is finished”; Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), p. 19688 and Exh. P-203 (Adoption of Statement by Witness and Interview Notes, 4 July 2008, TF1-206), p. 19742: in Bomboafuidu, Kono District, in April 1998, rebels hacked a civilian to death because he refused to stretch out his hands for amputation.

<sup>2684</sup> Corinne Dufka, TT, 22 January 2008, p. 1864; see also Exh. P-365, p. 22753 & Exh. P-14.

<sup>2685</sup> See for example Exh. P-16: A woman in the video says the rebels called them (the civilians) bastards and Tejan Kabbah supporters and told them today would be the last day that they meddled in politics. They ordered the victim to stretch her hand. She pleaded to be spared because she was the head of her household. They mocked her, saying to stretch out her hand and touch God. Her left hand was amputated.

<sup>2686</sup> See for example TF1-197, TT, 16 October 2008, pp. 18519-24 discussed more fully at in Count 1 above.

<sup>2687</sup> See for example Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19475-77: while a small boy cut off the right hands of five men, including the witness’ brother, the rebels told the women to clap for them and laugh. They did so because the rebels were there with guns in their hands.

<sup>2688</sup> See for example Exh. P-16: In response to the 1996 election of Tejan Kabbah, amputations became a rebel tactic of intimidation and revenge. Residents were often asked if they wanted long sleeves or short sleeves – code for their arms to be chopped off at the wrist or at the elbow; Exh. P-332, pp. 23206-07: attackers asked the villagers which arm they used to work with. People realizing what was happening like one teacher, said that he used his left arm even though he was right-handed. His left arm was amputated.

<sup>2689</sup> For example TF1-210, TT, 30 October 2008, pp. 19603-05 & TF1-201, TT, 31 October 2008, pp. 19708-10 referred to more fully at paras. 965-971 below regarding amputations at Tombodu; TF1-358, TT, 19 November 2008, pp. 20623-25, 20650-52.

<sup>2690</sup> TF1-539, TT, 10 June 2008, pp. 11383, 11385-87.

enemies during the conflict, their fresh amputations serving as a warning to the message recipients of the consequences for failure to listen.<sup>2691</sup>

956. In late 1995-early 1996, the RUF launched Operation Stop Elections, its first organized program of amputation.<sup>2692</sup> Sankoh told senior commanders that because the government did not agree to peace before elections, they should obstruct the elections in big towns under RUF control by shooting at civilian voters and “taking their hands off the election,” which meant to chop off the civilians’ hands.<sup>2693</sup> Witness Augustine Mallah explained that this was done to scare civilians because they would stay home if they saw people killed or with their hands chopped off.<sup>2694</sup> Samuel Kargbo described seeing civilians at the government hospital in Kenema with four fingers amputated and only their thumbs remaining. The civilians’ fingers had been used to embody a message that the rebels were winning their “match” against the soldiers—the civilians were instructed to tell the soldiers it was “I-love” and there would be no elections.<sup>2695</sup>

957. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>2696</sup> This typically involved villagers being rounded up in groups or lines and taken to the village pounding block where they were asked which arm was their working arm, and the designated arm was then amputated or mutilated.<sup>2697</sup> The public nature of these amputations magnified the terror of the civilians – as they were forced to

<sup>2691</sup> See for example TF1-334, TT, 21 April 2008, pp. 8114-16: In Bombali District in July 1998, Gullit ordered that a letter be written warning the people of Makeni that junta forces were on their way and if they did not support the junta, they would suffer the same fate as the three civilian amputees bearing the letter. The letter was hung around the civilians’ necks; Exh. P-190 (RUF Transcript of TF1-074, 12 July 2004), pp. 18494-95, 18501-02, and 18513-15 & Exh. P-191 (AFRC Transcript of TF1-074, 5 July 2005), pp. 18568-18569: During an attack on Yifin in Koindadugu District, Captain Barry, a commander in the RUF, captured seven people and chopped off their hands with an axe. Barry told the amputees to tell the national army that Rebel Barry was on the way; [REDACTED]

<sup>2692</sup> Exh. P-296, p. 21858; TF1-045, TT, 12 November 2008, pp. 20104-08, 13 November 2008, pp. 20159-64 and 18 November 2008, pp. 20476-78; DCT-306, TT, 14 April 2010, pp. 39016-18 and 16 April 2010, pp. 39177-78, 39219-20: Sankoh ordered his boys, Fula Mon Ami and Sam Bockarie, to do everything they could to make sure the elections did not take place. The witness later learned this involved cutting people’s hands and burning polling booths.

<sup>2693</sup> TF1-045, TT, 12 November 2008, pp. 20104-08, 13 November 2008, pp. 20159-64 and 18 November 2008, pp. 20476-78; DCT-306, TT, 14 April 2010, pp. 39016-18 and 16 April 2010, pp. 39177-78. [REDACTED]

<sup>2694</sup> TF1-045, TT, 12 November 2008, pp. 20104-05.

<sup>2695</sup> TF1-597, TT, 21 May 2008, pp. 10422-23, 10426-29.

<sup>2696</sup> [REDACTED]  
<sup>2697</sup> [REDACTED]; Exh. P-332, pp. 23206-07.

- watch the fate of others while awaiting their own. Thereafter, civilians who saw amputees became afraid, often running away.<sup>2698</sup>
958. Another form of mutilation prevalent during the Sierra Leone conflict was the marking of civilians. This involved the Indictment Perpetrators carving their initials into the chests, backs, arms or foreheads of captured civilians using a blade, bottle, or other sharp object. The Indictment Perpetrators used such marking to stigmatise, to control and to own.
959. The International Medical Corps noted that “[t]he torment of the scars was so great that some children tried to burn them off with caustic soda, which only made them worse.”<sup>2699</sup> For many, the torment continued even after the cuts healed. As TF1-143 testified, when he returned to school in 2000 with “RUF” on his chest, “I would button up my shirt up to the last button, up here, just so that nobody would see the mark.”<sup>2700</sup> NGOs such as IMC and COOPI performed plastic surgery on hundreds of marked victims like TF1-026 and TF1-143, recognizing that without such an operation, they might never be able to return to their communities and reintegrate into society.<sup>2701</sup>
960. The Indictment Perpetrators also used marking to establish ownership and control over captured civilians.<sup>2702</sup> Once marked, civilians could not escape: ECOMOG and government forces would instantly identify them as the enemy; rebels in other areas would immediately know they had escaped; and if they managed to make it back to their villages, they might be turned away or even subjected to reprisal killings because they were irrevocably linked to the Indictment Perpetrators.

<sup>2698</sup> TF1-215, TT, 14 October 2008, pp. 18324; Exh. P-189 (AFRC Transcript of TF1-072, 1 July 2005), p. 18453; TF1-197, TT, 16 October 2008, p. 18508; TF1-201, TT, 31 October 2008, pp. 19714-15.

<sup>2699</sup> Judicially Noticed Fact AH.

<sup>2700</sup> TF1-143, TT, 5 May 2008, pp. 9041-43. See also TF1-026, TT, 14 February 2008, pp. 3870-73 describing being marked on Mosquito’s orders when she was 14 with a dagger and how she thought if she removed the scar the mark would be erased. It was not.

<sup>2701</sup> Judicially Noticed Fact AH; TF1-026, TT, February 2008, pp. 3880-83 and Exhs. P-72 & P-113.

<sup>2702</sup> See for example TF1-360, TT, 5 February 2008, p. 3088: In 1997 at Kangari Hills, civilians were marked with RUF on their foreheads or backs which meant those who escaped and went to the government side would be killed because they would know you had come from the RUF zone. This happened in all RUF zones, not just Kangari Hills; TF1-026, TT, 14 February 2008, pp. 3870-73: Mosquito ordered that 17 recruits be marked to prevent escape; and pp. 3380-83: nine girls who went with the witness to have their markings removed said they were marked so they would not escape;



961. Aside from amputations and marking, the Indictment Perpetrators mutilated civilians in other ways. Examples include shooting civilians, pouring scalding water on a civilian's head and burning houses with civilians inside. Those who survived such acts emerged mutilated with permanent scars, lasting damage, disfigurements or even amputations.
962. In addition to mutilation, the Indictment Perpetrators beat civilians to punish, to make them compliant, and to stop criticism.<sup>2703</sup> Whatever form the violence took, civilians continue to suffer both physically and emotionally long after the act itself: lost limbs have resulted in lost livelihoods,<sup>2704</sup> permanent scars have caused shame and ostracization,<sup>2705</sup> and living with dignity has become a daily struggle for people whose injuries now require them to ask for assistance with even the most basic tasks.<sup>2706</sup>
963. Physical violence was committed by the RUF and its allies throughout the country and throughout the conflict, but the practice of amputation and its accompanying physical violence was particularly concentrated in two waves: (i) Operation Stop Elections; and (ii) Operation No Living Thing which began in early to mid-1998 in Kono District and the Northern provinces, and culminated in the invasion of Freetown. The last wave

<sup>2703</sup> See for example TF1-028, TT, 27 October 2008, pp. 19210-213, 19272: in Masiaka after January 1999, the witness was beaten by her rebel captors for attempting to escape; TF1-539, TT, 10 June 2008, pp. 11391-92;



<sup>2704</sup> See for example TF1-215, TT, 14 October 2008, pp. 18324-27: the witness has no money to give his children and is a "poor man in broad daylight" because he can no longer work. His children have dropped out of school and the witness cannot feed his children when they cry of hunger; TF1-217, TT, 28 October 2008, p. 19420: the witness has returned to his mining area but can no longer work; TF1-173, TT, 29 September 2008, pp. 17468-69: the witness testified, "I am the one who is supposed to be feeding my family but now I am reduced to a beggar"; Exh. P-209A (TF1-084 Witness Statements of 19 March 2007 & 23 May 2008), p. 20629: this amputee, a businessman before, said it is very difficult to get a job: "No company or government institution will employ me because I am incomplete."

<sup>2705</sup> See for example TF1-215, TT, 14 October 2008, pp. 18324-27: people are scared of the witness because of his amputation; TF1-197, TT, 16 October 2008, pp. 18539-40: the witness said his survival depends on the discretion of other people—he has been rid of his dignity and can't even feed his children; TF1-217, TT, 28 October 2008, p. 19420: "No matter how I dress up I always feel awkward amongst my fellow human beings"; Exh. P-209A (TF1-084 Witness Statements of 19 March 2007 & 23 May 2008), p. 20628: Since the burning of his house, the amputation of his hand and losing all he had, only a few friends and family will come to the witness' aid. "Whenever I think of my previous state compared to now, I feel disowned."

<sup>2706</sup> See for example TF1-278, TT, 30 January 2009, p. 24036: double amputee TF1-278 testified that his son takes care of him, including helping him in the bathroom; Exh. P-209A (TF1-084 Witness Statements of 19 March 2007 & 23 May 2008), p. 20630: This amputee witness said he can no longer clean himself properly; TF1-215, TT, 14 October 2008, pp. 18324-27: this single amputee said, "Even if I have a rash on this other hand how can I even scratch it? There is no way I can do it. It embarrasses me."; TF1-197, TT, 16 October 2008, pp. 18539-40: "you fend with your hands, your arms, but now that it is cut I can't do any work by my own....when I'm standing and I want to, you know, put up my trousers, I can't....it's only my wife who assists me."; TF1-233, TT, 1 October 2008, pp. 17715-16: the witness asked for a WVS support worker to sit by him to help him because "As I'm crying, the snot will run down my nose."; TF1-210, TT, 30 October 2008, p. 19639: When asked on cross-examination if he could read and write English, this double amputee replied, "I have no hands to write anything."

forms the basis of Counts 7 and 8 in Kono District and in Freetown and Western Area. As regards Kailahun District, this RUF stronghold was the site of ongoing physical violence toward civilians throughout the Indictment Period and is addressed separately below.

### **Kono District**

964. While the AFRC/RUF forces and ECOMOG clashed around Koidu, rebel attacks on civilians in villages in the area persisted and then spread west and north. With these attacks came reports of deliberate mutilations of civilian arms, hands, legs, ears and lips “across an arc spanning from Koidu in the East, beyond Kabala in the North and to within 20 miles of Freetown in the West.”<sup>2707</sup> One UN official said the brutal treatment of civilians, including children, was unlike anything he had seen in 29 years of humanitarian work.<sup>2708</sup>

### **Tombodu or Tumbodu**

965. In Tombodu, battalion commander Lieutenant Mohamed Savage and his deputy, Staff Alhaji,<sup>2709</sup> became notorious for their treatment of civilians—Savage earning the name Changa Bulanga meaning he was good at using a machete, at amputating people.<sup>2710</sup>
966. During one incident in Tombodu involving 77-78 captive civilians, Savage, Guitar Boy, Staff Alhaji, and some SBUs amputated 15 of the captives who were young men aged between 20-25 years old. The men were amputated at the wrist and told to go tell ECOMOG that Savage was in Tombodu as battalion commander. As noted above, when Superman, the commander of Kono District, came to Tombodu and learned what Savage had done, he took no action—Savage continued to be the commander there.<sup>2711</sup>
967. In another incident in Tombodu around March 1998, Samuel Komba and 13 other civilians were tied and made to lie criss-cross on top of each other. A fighter urinated on them before a mattress was placed on top of them and set on fire. Komba managed

<sup>2707</sup> [REDACTED] Exh. P-78, pp. 11-12. See also Exh. D-344; Exh. P-81, p. 1; and Exh. P-366, p. 00025071, para. 4.

<sup>2708</sup> Exh. P-78, p. 12.

<sup>2709</sup> TF1-334, TT, 17 April 2008, pp. 7965-66; TF1-360, TT, 5 February 2008, p. 3114; DCT-146, TT, 12 April 2010, p. 38647.

<sup>2710</sup> TF1-334, TT, 17 April 2008, pp. 7965-66.

<sup>2711</sup> TF1-334, TT, 18 April 2008, pp. 7983-7984, 7994-8001. See also [REDACTED] & DCT-172, TT, 25 August 2010, pp. 47128-30. The AFRC/RUF high command was aware of Savage’s atrocities but took no disciplinary action.

to extricate himself, so Savage tripped him, flogged him, then attempted to cut off his right hand with a cutlass, leaving Komba's fingers mangled.<sup>2712</sup>

968. Savage's deputy, Staff Alhaji, was as ruthless as his commander.<sup>2713</sup> After being forced to carry loads to Tombodu, a group of captured civilian men were taken to Staff Alhaji. Alhaji told the civilians he was "going to do his work" and sent for a mortar. Ibrahim Fofanah was first in line. Staff Alhaji chopped Fofanah's hand with a cutlass but it failed to sever, so Alhaji instructed him to pull off his own hand. After Fofanah complied, Alhaji cut off his other hand. Next in line was Mustapha Mansaray. Staff Alhaji amputated both of Mansaray's hands, having to chop one three times to fully amputate it. "I got up but I couldn't stand because I was dizzy," the witness recalled, "just like a cassette that you put in a tape recorder, the way it turns, that was how I was feeling." Of the six men amputated, only Mansaray and Fofanah survived. Staff Alhaji told the amputees he had removed their hands from politics.<sup>2714</sup> Other similar incidents of amputation occurred at Tombodu and its environs during the Indictment Period.<sup>2715</sup>

969. The troops in Tombodu followed the brutal precedent set and ordered by their commanders.<sup>2716</sup> Because of the intensity of the fight for control of Kono, some civilians were singled out for punishment because of the message it would send to ECOMOG or others. For example, UNHCR reported that a diamond miner had his hand and ear cut off with a machete in May 1998 in Tombodu by a Staff Sergeant "as a

<sup>2712</sup> Exh. P-189 (AFRC Transcript of TF1-072, 1 July 2005), pp. 18441, 18445-53 and TF1-072, TT, 13 October 2008, pp. 18155-59, 18176-81; Savage also cut him on both legs with a cutlass and Small Mosquito stabbed the witness in his left side with a bayonet.

<sup>2713</sup> Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), pp. 19696-97. Also of note, in addition to amputating civilians in Tombodu, Staff Alhaji was also blamed for amputations in Penduma (see TF1-217, TT, 28 October 2008, pp. 19405-16).

<sup>2714</sup> TF1-210, TT, 30 October 2008, pp. 19592-93, 19597-607, 19610, 19621, 19663-64; see also TF1-216, TT, 28 October 2008, pp. 19337-44, Exh. P-217, Exh. P-14; Exh. D-72A and Exh. D-72B: TF1-216's account has discrepancies but also several commonalities with the account of TF1-210, including that Alhaji was in charge and present for the amputation, the event happened in Tombodu after the men had carried loads there, Fofana was first in line, and only two of the men who were amputated survived. The Prosecution submits that the discrepancies, including the identity of the perpetrator, arise from the terror, trauma and stress that the witness endured at the time of the events and thereafter, and as testified to by the witness himself at pp. 19355, 19362-66. Such discrepancies should be considered alongside TF1-210's account but should not necessarily render the evidence unreliable. Discrepancies are discussed further at AFRC Trial Judgement, paras. 110-113 and RUF Trial Judgement, paras. 532-536.

<sup>2715</sup> TF1-210, 30 October 2008, pp. 19613, 615-16, 19671; Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), pp. 19696-97; TF1-217, TT, 28 October 2008, 19402-405.

<sup>2716</sup> Exh. P-309, Case # 16, p. 21536; TF1-197, TT, 16 October 2008, pp. 18465-66, 18471-77, 18539; in the bush outside Tombodu less than a month after the RUF and AFRC first came to Tombodu in 1998, a mixed group of RUF and AFRC beat the witness and stabbed him with a knife about three inches above his left ear. The witness bled from his nose and ears and said his head still aches when he talks too much. His wife and a man named Komba were also beaten; Exh. P-78, p. 13.

warning to others.” The miner believed he was amputated because he was of Guinean origin and Guinean soldiers played a prominent role in ECOMOG.<sup>2717</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>2718</sup>

970. The AFRC/RUF high command was aware of the crimes in Tombodu but did nothing to stop them. TF1-337 testified that his colleagues at the Joint Security Office in Koakoyima told him that many killings and amputations of innocent civilians took place in Tombodu and Savage was notorious for amputations. When the witness told this to Augustine Gbao, the overall IDU commander and chief security officer for the RUF, Gbao said he had received similar information. No action was taken.<sup>2719</sup>

971. The high command’s knowledge and approval of Savage and Staff Alhaji’s treatment of civilians is something former RUF commander and Defence witness Issa Sesay did not want to admit. He agreed that Savage and others amputated people’s arms between March to June of 1998 in Kono,<sup>2720</sup> but could not keep his story straight about when he heard of atrocities committed by Staff Alhaji. One day, he testified that in *April to May of 1998*, he heard about people amputated at the Tombodu axis by Savage, Staff Alhaji and their men.<sup>2721</sup> Another day, he said he heard about Staff Alhaji’s atrocities in *December 1998*.<sup>2722</sup> But when asked whether Staff Alhaji was ever arrested, detained or punished, Sesay testified that he did not know about the atrocities Staff Alhaji had committed *until he was told in this courtroom*.<sup>2723</sup>

### **Kaima or Kayima**

972. Komba Gbundema, battalion commander between Yomandu and Kayima, and his AFRC/RUF forces attacked civilians as far as Kayima.<sup>2724</sup> Civilian men, women and children with Komba Gbundema were called Junta 2s and became victims of another

<sup>2717</sup> Exh. P-309, Case # 9, p. 21514. The Staff Sergeant’s name was redacted from the public UNHCR report.

<sup>2718</sup> [REDACTED]

<sup>2719</sup> TF1-337, TT, 5 March 2008, pp. 5311-14.

<sup>2720</sup> DCT-172, TT, 25 August 2010, p. 47182.

<sup>2721</sup> DCT-172, TT, 19 August 2010, p. 46709 (emphasis added).

<sup>2722</sup> DCT-172, TT, 28 July 2010, pp. 44819-20 (emphasis added): Sesay heard about Staff Alhaji and Savage and the atrocities that they had committed in Small Sefadu, Benduma and Tombodu. He was told that the two men used to put people in houses in Tombodu and burn them, amputated civilians in Kono and Koidu and killed people.

<sup>2723</sup> DCT-172, TT, 25 August 2010, pp. 47130-31 (emphasis added).

<sup>2724</sup> TF1-334, TT, 17 April 2008, p. 7970 and TF1-334, TT, 18 April 2008, p. 7982-83

cruel form of mutilation: they were marked with “RUF” on their chests using razor blades or a sharp knife.<sup>2725</sup>

973. Witness Sorie Kondeh was one of the civilians marked in Kayima. Around May 1998, he and 17 other civilians were captured by mixed forces under Komba Gbundema’s command. All 18 captives were marked to prevent escape. Sorie’s younger brother, who was also captured, held his older brother’s hand as they were marked because he was afraid. Some captives were marked with either “AFRC” or “RUF” but both sets of initials were carved into Sorie’s chest.<sup>2726</sup>

### Wondedu

974. A similar practice was carried out in Wondedu in or around April 1998, where RUF commander Emmanuel Williams, aka Rocky, was deployed. Reverend Alex Tamba Teh testified that whenever civilians were captured, the rebels would take a razor blade or any other sharp object like a knife or zinc, and carve “RUF” on their chests and “AFRC” on their backs. Teh said he asked why this was done and was told the people should not escape—if they escaped and went to ECOMOG with that carving, they would be killed.<sup>2727</sup>
975. Rocky was succeeded by AFRC Captain KS Banya as commander in Wondedu. When Banya found out that Reverend Teh had advised some civilians who had come back from a food finding mission to go hide in the bush so they could rest, he pointed his gun at Teh and told the pastor he was going to die and nobody would be allowed to bury him. When orders from Rambo prevented him from killing the pastor, Banya put a flat stick shaped like a ruler in Teh’s mouth and held his lips shut, using the butt of his pistol to knock out Teh’s teeth.<sup>2728</sup>

<sup>2725</sup> TF1-375, TT, 23 June 2008, pp. 12544-46.

<sup>2726</sup> TF1-074, TT, 13 October 2008, pp. 18198, 18205-08; Exh. P-190 (RUF Transcript of TF1-074, 12 July 2004), pp. 10-13, 21, 51-52 & 59-62; Exh. P-191 (AFRC Transcript of TF1-074, 5 July 2005), pp. 14-17, 33-39 & 54, 60-61; Exh. P-192: the witness affirmed the photo showed the markings on his chest; [REDACTED]

<sup>2727</sup> TF1-015, TT, 8 January 2008, pp. 683, 698, 704, 706-08, 720-21; *see also* pp. 692 and 700 where the witness testified that Rambo was the brigade commander who gave Rocky orders.

<sup>2728</sup> TF1-015, TT, 8 January 2008, pp. 707-712, 723.

## Other locations in Kono District<sup>2729</sup>

976. Other locations in Kono District where mutilations occurred include Koidu,<sup>2730</sup> [REDACTED]<sup>2731</sup> Mamboma,<sup>2732</sup> Motema,<sup>2733</sup> Bomboafuidu,<sup>2734</sup> Sawoa,<sup>2735</sup> Yardu,<sup>2736</sup> Peyima and Gandorhun,<sup>2737</sup> Penduma,<sup>2738</sup> Bumpe,<sup>2739</sup> Meiyor,<sup>2740</sup> Yomandu, Guinea

<sup>2729</sup> Although these towns in Kono District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of physical violence at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>2730</sup> TF1-015, TT, 8 January 2008, pp. 693, 699-700: In Igbalah, Koidu, the witness saw SBUs amputate a boy's hands and feet with a machete, then throw him into a toilet pit; TF1-360, TT, 5 February 2008, p. 3143-46: The rebels carved "RUF" into the chest and foreheads of civilians who did mining for them around Koidu Town in 1998 to prevent escape; Exh. P-78, p. 12; TF1-303, TT, 29 January 2009, pp. 23873-74, 76: Sergeant Foday told the witness that Mosquito sent an order that they should stop killing and that they should be amputating hands and ears and padlocking mouths; Sergeant Foday said this was carried out in the villages around Koidu Town.

<sup>2731</sup> TF1-189, TT, 17 September 2008, pp. [REDACTED] 16504-07 [REDACTED]

<sup>2732</sup> TF1-065, TT, 24 September 2008, pp. 17093-94, 17098-103: RUF rebels attacked Mamboma in April 1998. The bullet that killed Joseph Foyoh hit Thomas Kobie in the right leg, breaking it, but Kobie did not die, so the rebels hacked him on his neck with a machete. The next morning, upon discovering Kobie was still breathing, the rebels took the machete and hacked him on his head, hands and legs; Kobie died.

<sup>2733</sup> TF1-065, TT, 24 September 2008, pp. 17113-27: On 12 June 2008, RUF fighters under Fixo Bio's command entered the house in Motema where the witness was sheltering more than 50 people and opened fire, wounding Tamba Mondeh (mouth) and Aiah Sandy's wife (buttocks) and daughter (clavicle) and killing 17 others. Some wounded are now amputees. TF1-173, TT, 29 September 2008, pp. 17448-54, 17458-61, 17465: While staying at Samuel Bull's house in Motema, a rebel shot the witness in the lip, leaving a 9-cm scar extending from his lower lip to his Adam's apple. Outside the house, Fixo Bio's rebels said the civilians liked ECOMOG, not them, and started shooting, killing people and wounding others. The witness' child was shot in his shoulder and his wife's leg was broken.

<sup>2734</sup> TF1-192, TT, 15 February 2008, pp. 3959-60, 3967, 3972-75 & 3981-92, 3994: In Bomboafuidu, in 1998, rebels slashed the private parts of a civilian woman with a knife while other civilians watched. The rebels mutilated the witness' right hand and hacked off both hands of the witness' friend, who was next in line. The witness later observed many others with amputated ears, arms and feet, including his sister; Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), pp. 19673, 19685-92, 19701-02 & 19727-29 and Exh. P-203 (Adoption of Statement by Witness and Interview Notes, 4 July 2008, TF1-206), p. 19742: in Bomboafuidu in April 1998, rebels attempted to amputate the witness' hands, rendering them non-functional, and amputated or attempted to amputate 17 other civilians.

<sup>2735</sup> TF1-195, TT, 15 October 2008, pp. 18436-40 and Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19472, 19475-77, 19482: In Sawoa after the Intervention, a boy under 14 years old in Lieutenant T's forces amputated the right hands of five men, including the witness' brother. The boy also chopped the witness on the upper part of her right arm because she did not put her hand on the mortar.

<sup>2736</sup> TF1-197, TT, 16 October 2008, pp. 18516-31, 18536, 18544-45: On 18 April 1998, the witness and other civilians were taken to Yardu in Kono District where "Alhaji's boss" ordered that his hand be chopped off at the wrist. On cross-examination, the witness identified the person who cut off his hand as RUF.

<sup>2737</sup> TF1-201, TT, 31 October 2008, pp. 19702-03, 19705-13, 19718-20 and Exh. P-223A-C: In Peyima in April 1998, witness had his right hand and both ears amputated by Junior, who was part of the 300 junta/RUF forces there; TF1-201, TT, 31 October 2008, pp. 19714-15.

<sup>2738</sup> TF1-217, TT, 28 October 2008, pp. 19398, 19405-06, 12-16: In April 1998 in Penduma, Kono District, Staff Alhaji amputated the hands of two men and hit the witness' hand 11 times with a machete before the hand fell to the ground.

<sup>2739</sup> TF1-218, TT, 14 October 2008, p. 18350-53, 18357 and Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18878-79, 18883-84, 18888: About three months after Kabbah was restored to power by ECOMOG and the rebels were in Bumpe, the witness was shot in the hand by a rebel. The witness showed the Court a deep scar and stated that she cannot use her hand to do anything; TF1-360, TT, 5 February 2008, pp. 3150-3155: During an attack on Bumpe led by CO Rocky in 1998 the hands of 10 civilians, including women and children, were amputated.

Highway, Superman area,<sup>2741</sup> Nimikoro,<sup>2742</sup> Kondeya,<sup>2743</sup> Massenbendu,<sup>2744</sup> Pakidu,<sup>2745</sup> Waimayma Town,<sup>2746</sup> Saiama,<sup>2747</sup> Komba Yende,<sup>2748</sup> and unspecified locations.<sup>2749</sup> Other locations in Kono District where beatings occurred include Foendor,<sup>2750</sup> Tongbodu,<sup>2751</sup> Mamboma,<sup>2752</sup> [REDACTED]<sup>2753</sup> Bomboafuidu,<sup>2754</sup> Penduma,<sup>2755</sup>

<sup>2740</sup> TF1-303, TT, 28 January 2009, p. 23837 and 29 January 2009, pp. 23860, 23865, 23874-75: At Superman Ground in Meiyor, a man who had tried to escape was recaptured and brought to the formation ground where Peppe, one of Superman's boys, lacerated his testicles, then ordered the civilians to kill him. The civilians beat him to death.

<sup>2741</sup> TF1-334, TT, 18 April 2008, p. 7978 and 21 April 2008, pp. 8062-64: SBUs amputated people's arms in Yomandu. The witness also saw RUF and SLA men perform amputations at Guinea Highway, and within Superman area, Dabundeh Street around March/April 1998. Witness was present when Superman ordered an RUF man to amputate a captured civilian as a warning to ECOMOG that they should not come to Kono.

<sup>2742</sup> TF1-360, TT, 5 February 2008, pp. 3150-55: Morris Kallon gave CO Rocky command of a mission to attack Nimikoro in Kono District in 1998 in which the fighters committed amputations.

<sup>2743</sup> Exh. P-78, p. 12.

<sup>2744</sup> Exh. P-78, p. 13.

<sup>2745</sup> TF1-263, TT, 6 October 2008, pp. 17889-17892, 17894-97: After soldiers started burning down houses in Koidu, armed rebels speaking Mende and Liberian English attacked civilians hiding in the bush near Pakidu. The witness saw armed rebels pour scalding water on a man's head which left him scarred to this day.

<sup>2746</sup> Exh. P-309, Case #6, p. 21504-06.: In March 1998, 17 armed men led by Lt. Blood of the People's Army surrounded 22 civilians in the forest near Waimayma Town. Two soldiers struck a 29-year-old mechanic's arm with a machete 3 times. The hand remained attached by ligaments and skin but later had to be amputated.

<sup>2747</sup> Exh. P-309, Case # 7, p. 21509.

<sup>2748</sup> Exh. P-309, Case #10, p. 21517.

<sup>2749</sup> TF1-459, TT, 25 September 2008, pp. 17321-27: on a food-finding mission between Baima and Woama with his AFRC/RUF captors, the witness was instructed by Hosana to write a note: "To Mr. Tejan Kabbah and ECOMOG. We are still in the jungle and we will fight to the last drop of our blood." Hosana used a sharp sword to amputate the arms of one of the male civilians they had captured and put the note in the man's trouser pocket; TF1-201, TT, 31 October 2008, pp. 19715-17, 19722-23: some of the 56 wounded who were taken to Connaught Hospital by ECOMOG from Kono district in April 1998 had five gallon jerry cans set on fire and dropped into their eyes and on their bodies.

<sup>2750</sup> TF1-064, TT, 30 September 2008, pp. 17641-45: Rebels beat a Temne man for refusing to rape the witness in the bush outside of Foendor, Kono District; TF1-076, 13 October 2008, pp. 18224-28 & Exh. P-195 (AFRC Transcript of TF1-076, 27 June 2005), pp. 18616-19: In the bush in Foendor after Pa Koroma came (to Kono), an RUF who said "No Living Thing" flogged the witness' brother-in-law and wounded him in the head with the butt of a gun.

<sup>2751</sup> TF1-065, TT, 24 September 2008, pp. 17068, 17079-86: in April 1998, the witness' RUF captors, led by "Issa," captured Pa Wusu and some other civilians near Tongbodu Town in Kono District. Issa and an RUF named Ngoba beat a civilian boy with Pa Wusu's machete so the civilians would produce food.

<sup>2752</sup> TF1-065, TT, 24 September 2008, pp. 17093-96; pp. 17094, 17098-99: In Mamboma Town, RUF fighters beat a small boy who would not stop crying; pp. 17107-08: in the same attack, the witness' father, who was over 65 years old, was captured by rebels and hit repeatedly in the head with a gun until blood oozed from his head and he dropped down.

<sup>2753</sup> [REDACTED]

[REDACTED] a woman was flogged by rebels on 12 March 1998.

<sup>2754</sup> TF1-192, TT, 15 February 2008, pp. 3959-60, 3967, 3975-77: In 1998 at Bomboafuidu, rebels locked civilian women in a farmhouse, naked then took them out in small groups and beat them; Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), pp. 19673, 19682-83 and Exh. P-203 (Adoption of Statement by Witness and Interview Notes, 4 July 2008, TF1-206), p. 19742: In Bomboafuidu in April 1998, rebels beat the witness' stepmother for trying to resist having forced sex with another villager. As a result of the beating, she suffered a lot of internal injuries and died some months later; Exh. P-202 (AFRC Transcript of TF1-206, 28-29 June 2005), p. 19681: a boy trying to run away from the rebels was hit on the head with a gun; p. 19684: one of the civilian boys selected to have sex with the village women didn't want to do it so the rebels hit him on the buttocks with a bayonet to force him; p. 19687: when the witness raised his hand to stop the cutlass from chopping his second hand, the rebel hit the witness on the back.

Bumpe,<sup>2756</sup> Baiama,<sup>2757</sup> Sawoa,<sup>2758</sup> and Yawondo.<sup>2759</sup> Another location in Kono District where other forms of physical violence occurred was near Foendor.<sup>2760</sup>

### **Kailahun District**

977. Strategically important for its proximity to the diamond areas of Kono and Tongo Fields and its shared border with Liberia, Kailahun District was the RUF stronghold throughout the entire Indictment period, allowing ease of access to both Charles Taylor and diamonds. Civilians in Kailahun were victims of numerous crimes perpetrated by the Indictment Perpetrators, including physical violence.

978. Even JPK's family was not immune from physical violence at the hands of the RUF. When JPK was accused of intending to escape to Liberia with a large quantity of diamonds that he had not turned over to the movement, his family, including children, was beaten so severely by AFRC/RUF fighters that some of the family members lost consciousness.<sup>2761</sup>

<sup>2755</sup> TF1-217, TT, 28 October 2008, pp. 19398, 19405-06, 19412-17: In April 1998 in Penduma, Staff Alhaji hit the witness on the forehead with a machete for removing his hand before Alhaji could cut it. The blow caused the witness' forehead to bleed and left a scar. Staff Alhaji also hit the witness on the back with a machete as a "goodbye" when the witness bent to retrieve his severed hand from the ground.

<sup>2756</sup> TF1-218, TT, 14 October 2008, p. 18350-53 and Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18877-84, 18888: About three months after Kabbah was restored to power and the rebels were in Kono, a man dressed in combat with a gun kicked the witness to the ground in Bumpe, then forced her to go a house at Cockerill Junction where other civilians were being held. The men at the house said they were rebels. When a captured civilian refused to have intercourse with his wife because others were watching, a rebel hit the man's wrist with the butt of his gun.

<sup>2757</sup> TF1-303, TT, 29 January 2009, pp. 23850-57, 60: In Baiama Town, Kono District, 1998, Peppe, a member of Superman's group, struck witness' mother with a gun when she pleaded for the release of her daughter.

<sup>2758</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19463, 19472-75, 19482: Rebels under Lieutenant T's command told captured civilians that they would show they were in control of the country and "from this moment now is operation no living thing," then "seriously flogged" all of the civilians. The witness' head and mouth were wounded. This occurred when the people's army was removed from Freetown and went up to Kono.

<sup>2759</sup> Exh. P-218A (AFRC Transcript of TF1-198, 28 June 2005), pp. 19577-79, 19587, 19591, 19604-05: In 1998 three armed men wearing combat came to the witness' hut in the bush near Yawondo, tied her and her husband's hands behind their backs, and looted. When the witness' husband followed the men to recover money they had stolen, one of the men (one of Staff Alhaji's boys) hit the witness' husband repeatedly on the head with a whip he had cut with a cutlass; pp. 19581-83: Later, another group of soldiers in combat captured the witness and another woman, demanding rice. The witness said they had no rice and she was then flogged, pushed to the ground, kicked, stabbed in the back and a stick was pushed into her anus. Blood started oozing; the witness was pregnant at the time.

<sup>2760</sup> TF1-076, 13 October 2008, pp. 18224-25, 18227 and Exh. P-195 (AFRC Transcript of TF1-076, 27 June 2005), pp. 18616-19: in 1998 after the Intervention, three armed rebels demanded money and food from the witness and her family in the bush near Foendor. One of the rebels told the witness' uncle he was going to "roast him alive" and her uncle was then wrapped in a bedspread which was set on fire - he survived this incident.

<sup>2761</sup> TF1-597, TT, 22 May 2008, pp. 10526-33, 10536-37 and 3 June 2008, pp. 10765-66, 10771-74, 10783-84. See also Exh. P-306, p. 21442, para. 21. This report corroborates the occurrence of extreme physical violence in the District by AFRC/RUF as the report refers to photographic evidence suggesting that a number of the 40



## Use of Physical Violence at Camp Lion Training Base - Bunumbu

979. [REDACTED]  
[REDACTED]<sup>2762</sup> Bockarie put Monica Pearson in charge of the base and hundreds of captured civilians were subjected to physical violence during their training there.<sup>2763</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>2764</sup>

980. Recruits at the Bunumbu training base were often flogged. TF1-189 described that those who were not able to run long distances or who refused to do so were flogged by CO Monica.<sup>2765</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>2766</sup>

981. The practice of physically disciplining recruits at the Bunumbu training base was well known by the RUF High Command. [REDACTED]  
[REDACTED]<sup>2767</sup> [REDACTED]

people killed in a 6 September 1998 rebel attack on Kamalu were subjected to 'extreme torture' before they were killed. [REDACTED]  
[REDACTED]

<sup>2762</sup> [REDACTED]  
<sup>2763</sup> [REDACTED]; TF1-263, TT, 6 October 2008, pp. 17925-29; The witness and more than 200 other civilians captured in Kono were told by Issa Sesay that Mosquito wanted them to go to Kailahun for training. The captives walked for three weeks from PC Ground in Kono to Kailahun, bypassing Buedu in the bush to reach the training place. Monica was identified as the one who would train them, and the witness and the others spent two months training there; Exh. P-88, pp. 1-2: shows Monica Pearson as Training Commandant; Exh. D-13: shows 603 total recruits at the Camp Lion Training Base in Bunumbu in May 1998.

<sup>2764</sup> [REDACTED]  
<sup>2765</sup> TF1-189, TT, 18 September 2008, pp. 16532-33, 16537-39 and [REDACTED]  
<sup>2766</sup> [REDACTED]  
[REDACTED]  
<sup>2767</sup> [REDACTED]

[REDACTED]

[REDACTED]<sup>2768</sup>

982. The recruits at Bunumbu training base were also taught to commit acts of physical violence against others. In city attack training, villages near the base were alerted in advance that at a certain time, they should not come outside. Recruits and trainers would surround the village, lie in ambush, and attack while the civilians slept, entering their houses, tying them up, beating them with sticks, and taking their properties.<sup>2769</sup>

[REDACTED]

[REDACTED]

[REDACTED]<sup>2770</sup>

983. RUF recruits in Kailahun District were marked to prevent escape.<sup>2771</sup> TF1-026 described how she and other girl recruits were called together by Sam Bockarie, who shot and killed two girls who had tried to escape and said “that was an example” for anyone who attempted to run away. He then passed an order that the 17 remaining girls should be marked because if they ran away and were caught, they would be killed.<sup>2772</sup>

[REDACTED]

[REDACTED]<sup>2773</sup>

### **Use of Physical Violence in Kailahun to Facilitate Other Crimes**

984. Using civilians as forced labour in the RUF headquarters district of Kailahun was so crucial to the smooth daily operation of the RUF that a formal hierarchy was implemented to allow the efficient passage of orders from senior commanders to

<sup>2768</sup> [REDACTED]

<sup>2769</sup> [REDACTED]

[REDACTED]. See also TF1-263, TT, 6 October 2008, pp. 17928-31: The witness and other recruits at the training base in Kailahun district were taught how to attack a town, how to burn houses and how to take over a town.

<sup>2770</sup> [REDACTED]

<sup>2771</sup> TF1-189, TT, 18 September 2008, pp. 16532-33, 16537-39 and [REDACTED] the witness' relative [REDACTED] who was taken to the training base in Kailahun District on the route to Buedu Town showed the witness marks that had been put on her by a razor blade. She told the witness that the men had “RUF” marked on their backs – the marks were to protect them from gunshots and also to prevent them from running away because the marks would cause ECOMOG to classify them as rebels.

<sup>2772</sup> TF1-026, TT, 14 February 2008, pp. 3843, 3851-3867-73.

<sup>2773</sup> [REDACTED]

[REDACTED]

civilians.<sup>2774</sup> Failure to comply with these orders to work resulted in physical violence. Civilians who refused to work were flogged until they were willing.<sup>2775</sup> Civilians who delayed in following orders were beaten.<sup>2776</sup> Failure to bring enough workers to complete an assigned task also warranted beatings.<sup>2777</sup> Witness Aruna Gbonda described how civilians in Talia were not paid for their work on the RUF rice farms but “[i]f you did not do it you would be beaten and that would be your pay.”<sup>2778</sup> Although there was a hierarchy in place to pass orders to the civilians, when the beatings occurred, “you could not even think about reporting because there was nowhere to report.”<sup>2779</sup>

985. Resistance to other crimes also incited beatings. For example, a civilian woman who refused to have sex with an RUF commander was given 50 lashes.<sup>2780</sup> Civilians who refused to hand over their own coffee, cocoa and kola nut to the RUF were beaten as well.<sup>2781</sup>

## **Freetown and Western Area**

### **Freetown, including the northern and eastern areas of the city**

986. When the AFRC/RUF and/or Liberian fighters reached Freetown and Western Area in culmination of the multi-axis offensive of late 1998/early 1999, they continued the gruesome campaign of terror they had honed during and after their 1998 retreat. Acts

<sup>2774</sup> See the section on Enslavement/ Forced Labour below re. civilians forced to carry loads, mine, prepare an air field, hunt, fish, and farm; TF1-330, TT, 19 February 2008, pp. 4245, 4247-49; TF1-337, TT, 4 March 2008, pp. 5230, 5273-74 and 5 March 2008, pp. 5290-91.

<sup>2775</sup> TF1-045, TT, 13 November 2008, pp. 20203-06: Civilians were captured and taken to Buedu to work for RUF and AFRC soldiers. Those who refused and who were not sick or very old were flogged until they were willing to do it because it was inciting others to refuse doing the work—“we would set an example on you.”

<sup>2776</sup> TF1-330, TT, 19 February 2008, pp. 4251-53: The witness was beaten many times while working on Talia farm between 1996 and 2000 – “Whenever they would tell us to do something, if they asked us to go and if you delayed just a bit you would be beaten. Even myself sitting here, I was beaten many times.” The first beating the witness received was by a rebel named Jerry for seeming reluctant to work; TF1-330, TT, 19 February 2008, pp. 4266-68: Women fished for the RUF between 1994 and 2000 from Keyeh River in Luawa Chiefdom, Kailahun District. The witness saw Hawa Jusu beaten by rebels in March 1997 and March 1998 because she delayed bringing the women together to fish.

<sup>2777</sup> TF1-330, TT, 19 February 2008, pp. 4253-55: The witness was beaten by Tom Sandi with a sliced tyre referred to as a cobra for failing to bring enough workers to clear the swamp in Gbaïama.

<sup>2778</sup> TF1-330, TT, 19 February 2008, p. 4253.

<sup>2779</sup> TF1-330, TT, 19 February 2008, pp. 4254-55.

<sup>2780</sup> TF1-114, TT, 15 January 2008, pp. 1273-76: the incident occurred between March 1998 and December 1999.

<sup>2781</sup> TF1-337, TT, 5 March 2008, pp. 5230, 5289-94: In Kangama, Kollah Boama and other villages around Buedu, Kailahun District, civilians who refused to hand over coffee, cocoa & kola nut to the RUF were beaten by Sam Bockarie’s and Issa Sesay’s bodyguards. The witness gave the information to the IDU commander in Buedu, Francis Musa, but no action was taken for the conduct. This occurred between December 1996 and March-April 1997.

of physical violence during the invasion rose to such a level that hospitals were overwhelmed by civilians from Freetown and the surrounding area.<sup>2782</sup> TF1-358 described a “mass movement of wounded” being brought to hospital in ECOMOG trucks, push carts, or carried on people’s backs.<sup>2783</sup> The hospitals tried to cope with limited resources, converting sheds into temporary wards and putting patients on trolleys, camp beds, or mattresses on the floor.<sup>2784</sup> Less severe cases were moved to the National Stadium to make room for the more seriously wounded.<sup>2785</sup> Some medical personnel were only able to help for one to two hours before heading home in order to avoid violating the curfew.<sup>2786</sup>

987. [REDACTED] <sup>2787</sup> perpetrated by AFRC/RUF fighters such as Adama Cut Hand. Witness TF1-143 testified that when he joined Adama Cut Hand’s group based at Foamex, she told him her group amputated arms, and he saw machetes, blood on the ground, and arms that had already been amputated.<sup>2788</sup> Adama called herself a tailor and told her victims to tell her what “style” they wanted—short sleeve or long sleeve—which meant amputating at the elbow or at the wrist, respectively.<sup>2789</sup>
988. Arms and hands were not the only types of amputations in Freetown. Some invaders tried to prevent their victims from identifying them in the future. For example, one suckling mother who left her home in search of food was gang raped by at least seven rebels around King Harman Road. After raping her, the rebels plucked out both of her eyes so that she could not identify them.<sup>2790</sup> Another civilian was attacked by rebels

<sup>2782</sup> TF1-358, TT, 19 November 2008, pp. 20638-39.

<sup>2783</sup> TF1-358, TT, 19 November 2008, pp. 20633-38, 20653. See also TF1-358, TT, 20 November 2008, pp. 20727-28 and Exh. P-251: photograph showing how the injured were conveyed in Freetown in January 1999; Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20600: After his hand was amputated, a woman loaned TF1-084 a wheelbarrow which his brothers used to take him to the satellite clinic at King Harman Road.

<sup>2784</sup> TF1-358, TT, 19 November 2008, pp. 20639, 20642, 20673-74 & Exh. P-227: photograph showing patients on trolleys in a cow shed outside a hospital because of overcrowding. See also TF1-331, TT, 22 October 2008, p. 1903: At Connaught Hospital, everybody was lying on the floor; there was no place to sleep, there were no beds.

<sup>2785</sup> TF1-358, TT, 19 November 2008, pp. 20636-37.

<sup>2786</sup> TF1-358, TT, 19 November 2008, pp. 20640-41; see also TF1-278, TT, 30 January 2009, pp. 24034-35.

<sup>2787</sup> [REDACTED]

<sup>2788</sup> TF1-143, TT, 5 May 2008, pp. 9026-28; see also [REDACTED]

<sup>2789</sup> TF1-143, TT, 5 May 2008, pp. 9028-29: Adama’s boys brought two men to her at Foamex. When neither man answered her question about the “style” they preferred, she gave one man short sleeve and one man long, then told them to go to Pa Kabbah to ask for arms.

<sup>2790</sup> TF1-358, TT, 20 November 2008, pp. 20723-26, 20754-55 & Exhs. P-249 & P-250.

who amputated both of his arms and then cut off part of his tongue to prevent him from identifying them. The man pleaded for the rebels to kill him, so they struck him on his forehead with a machete. Left to die, he was found by ECOMOG troops and taken for treatment.<sup>2791</sup>

989. Other victims reported that civilians were forced to watch immediate family members suffer amputations.<sup>2792</sup> One witness testified that two brothers, aged 14 and 16, had their hands amputated by rebels in the presence of their parents in the east end of town. The boys' father told the witness there was nothing he could do because other people who resisted were killed.<sup>2793</sup>
990. Civilians were also beaten during the invasion. Witness Abubakar Mansaray was captured at his home on Waterloo Street on 8 January and was one of more than 50 civilians held in the kitchen of State House by a mixed group of rebels and soldiers, which included fighters speaking Liberian English.<sup>2794</sup> Gullit told his boys that the captured civilians were going to be forced to join them because they had lost many rebel boys to ECOMOG.<sup>2795</sup> Mansaray refused to join and was stripped of his clothing and beaten; others who refused were killed.<sup>2796</sup>
991. The AFRC/RUF remained in control of large portions of eastern Freetown until late January.<sup>2797</sup> As ECOMOG continued to apply pressure and put the AFRC/RUF on the defensive, the rebels wreaked havoc on civilians in retaliation.<sup>2798</sup> As a result, civilians in the rebel-occupied eastern areas such as Calaba Town, Wellington and Kissy suffered extensively.<sup>2799</sup> These are addressed below.

<sup>2791</sup> TF1-358, TT, 19 November 2008, pp. 20647-48 & 20 November 2008, pp. 20686-88 & [REDACTED]

<sup>2792</sup> TF1-358, TT, 19 November 2008, pp. 20645, 20656.

<sup>2793</sup> TF1-358, TT, 19 November 2008, pp. 20643-44.

<sup>2794</sup> TF1-024, TT, 29 October 2008, pp. 19549-50, 19553, 19556-57, 19562 & Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20427-28, 20432, 20437, 20446-47, 20454-56, 20475-81, 20489-90 & Exh. P-222 (AFRC Transcript of TF1-024, 8 March 2005), p. 20503.

<sup>2795</sup> TF1-024, TT, 29 October 2008, pp. 19554-55 & Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20430-31.

<sup>2796</sup> TF1-024, TT, 29 October 2008, p. 19552 & Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20428, 20430-31, 20448, 20454, 20484-85.

<sup>2797</sup> Exh. P-328, p. 23000.

<sup>2798</sup> TF1-334, TT, 23 April 2008, pp. 8328-35.

<sup>2799</sup> Exh. P-328, p. 23000.

**Calaba Town**<sup>2800</sup>

992. During or after the third week of January after withdrawing from Freetown, more than 200 RUF, SLAs, STF and former NPFL fighters attacked Calaba Town, killing and amputating civilians.<sup>2801</sup> Witness Osman Jalloh described how he and nine other civilians went to Sayinoh Junction, the place dividing Wellington and Calaba Town, where over 100 rebels were based. The commander threatened to amputate the civilians if an Alpha Jet were to meet them there. To the civilians' horror, an Alpha Jet came and started shooting. When it was gone, the rebels brought the civilians outside where a mortar had been set up and one of the fighters was holding a machete. Otick was the first in line and Mr. Jalloh was second. When Otick pleaded, "Please don't cut off my hands," the civilians were told that those who begged would be chopped up with the machete. Otick was ordered a second time to place his hand on the mortar and again refused, pleading. The man with the machete chopped Otick on the head and the blood flowed to Mr. Jalloh, who was next in line. Mr. Jalloh described thinking he should not plead, so when it was his turn, he placed his hand on the chopping block. Both of Mr. Jalloh's hands were chopped and left hanging, and he was told to tell Kabbah and ECOMOG that if they came to the same place, their hands would be chopped off in the same way. As Mr. Jalloh moved on, he encountered another large group of rebels who saw his condition and said they should "finish" him. "I told them...no, don't finish me. I have been given a message to deliver to Pa Kabbah." He was allowed to continue.<sup>2802</sup>

**Allen Town**<sup>2803</sup>

993. Witness Akiatu Tholley, who was forced to retreat with her captors, described seeing rebels burn down houses, amputate people and loot property as they retreated from Wellington to Allen Town.<sup>2804</sup> A.B. Sesay described how the 200-strong force that attacked Calaba Town also attacked Allen Town around the third week of January.

2800

See also Exh. P-109: TF1-334 marked Calaba Town as #3, and it appears on the map between Wellington and Allen Town.

<sup>2801</sup> TF1-334, TT, 23 April 2008, pp. 8361, 8370-72, 8374-75: SBUs amputated civilians in Calaba Town and on the way; TF1-026, TT, 14 February 2008, p. 3848: the witness saw the RUF rebels amputate two boys they met between Wellington and Calaba Town. The boys were 19 and 20.

<sup>2802</sup> TF1-233, TT, 1 October 2008, pp. 17696-17721: Otick was taken to Connaught Hospital and died three days later. All eight of the adults in the group with the witness had their hands amputated, including Iyei Bacca and Swadatu; Exh. P-184A-C: depict the witness' arm amputation (rt.) and mutilation (left).

2803

See also Exh. P-109: TF1-334 marked Allen Town as #2, and it clearly appears on the map between Calaba Town and Grafton.

<sup>2804</sup> TF1-085, TT, 23 October 2008, pp. 19177-79.

When they met civilians on the way that they “wanted to deal with,” the fighters would ask the SBUs to amputate them.<sup>2805</sup>

### **Kissy, including Kissy Mental Hospital**

994. Serving as both a rebel base and staging area for fresh onslaughts into the city, Kissy’s strategic location exposed its civilians to a terrifying occupation by large numbers of AFRC/RUF fighters, resulting in catastrophic losses.<sup>2806</sup>
995. Civilians who left their homes during the Kissy occupation risked the disastrous consequences that came with running into rebels scattered all over the area. For example, an RUF man stopped witness Ibrahim Wai at PWD around Ferry Junction and asked him for money. When the witness told him he had none, the RUF man gave him a dozen lashes on the hand with an electric cable.<sup>2807</sup> Witness James Kpumgbu went to Kissy Mental Home to search for his parents and encountered four rebels who amputated his right hand, mutilated his left, and cut the hands of two of his companions.<sup>2808</sup>
996. The brutality escalated as the rebels were pushed out of central Freetown and forced eastward. “The worst of it started on the 19<sup>th</sup>” said Wai, who saw five people near PWD Ferry Junction whose hands had been amputated and the next day saw a man holding his amputated hand.<sup>2809</sup> Wai did not know he was about to suffer the same fate. Around 3 p.m. the next day, two rebels entered the house where he was staying, asked him for 400,000 leones, hit him with the butt of a gun, held him at gunpoint and amputated his left hand, then cut both hands off of 15-year-old Koroma Brima. As the witness hid in his neighbour’s toilet, he saw the same two rebels put petrol on his house and set it on fire. Koroma did not get out.<sup>2810</sup>
997. The rebels used the civilians in Kissy to express their rage at ECOMOG, Kabbah, and the people. Witness Mohamed Bah heard Akim say people in Kissy had molested one

<sup>2805</sup> TF1-334, TT, 23 April 2008, pp. 8361, 8371-74.

<sup>2806</sup> Exh. D-65, p. 3; TF1-334, TT, 23 April 2008, p. 8332 & 8350.

<sup>2807</sup> TF1-097, TT, 16 October 2008, pp. 18572-73 and 17 October 2008, pp. 18578-79, 18609-10, 18627-30.

<sup>2808</sup> TF1-087, TT, 13 October 2008, pp. 18116-30: The witness is unable to use the thumb and index finger of his left hand. At Connaught Hospital, the witness saw that both of Mr. Lansana’s hands were cut off, and both of Mr. Babah’s hands were chopped but not completely cut off; see also Exhs. P-187 & P-188: photographs showing the witness’ amputated right arm and mutilated left arm.

<sup>2809</sup> Exh. D-65, pp. 3-4 and TF1-097, TT, 17 October 2008, p. 18632.

<sup>2810</sup> TF1-097, TT, 17 October 2008, pp. 18583-97, 18610-13, 18634-46, 18649; Exh. D-65, pp. 3-5: The witness referred to his attackers as RUF and Sierra Leone soldiers – they were mixed. The witness’ sister told him she saw Koroma’s charred body inside of the house—that was how the witness learned he was dead.

of his commandos and he was going to teach them a lesson. Akim said he was going to make Kissy become a desert and ordered the RUF men to burn houses, kill, and chop limbs.<sup>2811</sup> Similarly, Gullit appointed a rebel squad to go to the Low-Cost Housing area to amputate people and burn houses. Osman Sesay, who had taken Savage's nickname of Changa Bulanga, reported back to Gullit when the mission was completed as ordered.<sup>2812</sup>

998. The results of these orders are corroborated by TF1-083 and Alusine Conteh. TF1-083 was intercepted by a group of rebels on the 22<sup>nd</sup> of January at Old Road at Low-Cost in the Samuels area. The witness and other civilians were told to undress and lie on their backs so that they could be killed or "sent," which meant that their hands would be amputated. The witness was stabbed with a knife on his upper left arm and his right hand was amputated with an axe. The rebels then amputated Pa Sorie's hand and four of Musa's fingers. The commanders shouted to cut off Musa's hand so he could tell Kabbah to give him a new hand, but Musa begged them not to. The rebels asked Musa if he was fighting against the commander and shot him dead.<sup>2813</sup> Alusine Conteh's hand was amputated by rebels between Leaden Hall Street and Parsonage Street. When his 4-year-old son Karim cried out on his father's behalf, the soldier threatened to cut off the boy's hand—prompting the witness to sacrifice his other hand in place of that of his son. The rebels then threatened to amputate the witness' wife as well. With no hands left, the witness desperately pleaded with the rebels to kill him instead and the rebels decided to leave.<sup>2814</sup>
999. BBC Focus on Africa broadcasts reported that rebels were moving about Kissy with sharp axes and using them on civilians. The reporters on the ground encountered civilians whose hands had been amputated, including young amputees who said

<sup>2811</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20595-97 and Exh. P-208, p. 20620: Akim gave the orders to the RUF men and the burning of houses in Kissy started happening every day. The witness also saw rebels in military trousers and military dress beat people with belts and sticks, kill people and perform amputations; see also TF1-358, TT, 19 November 2008, pp. 20645-46.

<sup>2812</sup> TF1-334, TT, 23 April 2008, pp. 8351-54, 8360-61 and 21 April 2008, pp. 8094-97 (re. Osman Sesay's nickname).

<sup>2813</sup> Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18775, 18780-86, 18802-03: Note the transcript says on p. 18780 that he met the rebels at Old Road at Locust and Samuels. Locust should be Low-Cost.

<sup>2814</sup> TF1-278, TT, 29 January 2009, pp. 24023-31, see also [REDACTED]



Liberian fighter CO Cut Hand was in charge of the team carrying out amputations in Kissy.<sup>2815</sup>

1000. Witness TF1-143 was a member of that team. He described going to Kissy to loot and taking two men back to Adama Cut Hand for amputation because they resisted. Soon the witness was following Adama's example and amputating civilians himself. According to the witness, he and another boy went to a shop in Kissy market and knocked on the door. When no one answered, the witness used the bayonet on his AK-47 to pry open the door. Inside, they found two men, and the boys amputated the hands that the men had refused to use to open the door.<sup>2816</sup>

1001. In addition to Adama Cut Hand's unit which specialized in amputations,<sup>2817</sup> many of the amputations in Kissy were carried out in a highly organized and public fashion. Begging for mercy was pointless, and the rebels arbitrarily determined which civilians would be killed and which would be amputated. Witness Mohamed Sesay described how seven rebels ordered him and twenty-three other men to stand in a queue for amputation. When the first few men in the queue pleaded to keep their arms, they were killed. "[Y]ou would want to turn your face the other way so that you could not see what was happening, but they would not accept that...we were all frightened" he said. Civilians were forced to watch as the line narrowed, dreading the inescapable fate before them. When it was Mohamed's turn, he told the commando he would prefer to be killed rather than have his arm amputated, but the commando did not oblige—rebels held him while both of his hands were chopped above the wrist.<sup>2818</sup>

1002. Another example of the unpredictability of the rebels' arbitrary decision-making was related by witness Mohamed Bah. Mohamed escaped from his house which had been set on fire by RUF men and was captured at Rowe Street with seven other civilians. The rebels killed the others but Tafaiko, the leader of the group, told Mohamed his hand should be amputated. Mohamed was forced to the ground. One rebel placed his foot on

<sup>2815</sup> Exh. P-263: Lansana Fofana reported that he had come across four young men from Kissy whose wrists had been mutilated the day before and who told him about CO Cut Hand; Exhs. P-356A & B: Winston Ojukutu-Macaulay reported that he travelled with ECOMOG to Kissy and on the way back to Freetown, they brought back about five civilians who were amputated.

<sup>2816</sup> TF1-143, TT, 5 May 2008, pp. 9032-36.

<sup>2817</sup> TF1-143, TT, 5 May 2008, p. 9028.

<sup>2818</sup> TF1-101, TT, 14 February 2008, pp. 3917-27: an SBU not even 13 years old attempted to amputate the witness' left hand using an axe but it was not severed so the commando took the axe and hit the left arm twice, then the right one. Both hands were hanging on by some flesh and were later fully amputated.

the witness' chest while another lifted an axe and brought it down on the witness' left hand, cutting it at the wrist.<sup>2819</sup>

1003. One of the most chilling aspects of the AFRC/RUF's campaign of terror was the calloused remarks they made to amputees, often in the form of messages to pass on to others. Tafaiko told Mohamed Bah they were cutting his hand so he could no longer vote for democracy and to go to Tejan Kabbah for another hand.<sup>2820</sup> James Kpungbu recalled that his perpetrator told him to tell Kabbah that they were fighting for power.<sup>2821</sup> A.B. Sesay saw Osman Sesay aka Changa Bulanga amputate three civilians at Shell Old Road and tell them to meet Pa Kabbah to give them hands.<sup>2822</sup> Alusine Conteh testified that Captain Two Hand No Mercy told Boi Barrie to go to Tejan Kabbah and tell him no more politics, no more votes.<sup>2823</sup> After his own double amputation, Conteh was told to tell Kabbah that what had been done to him was a result of the refusal to accept peace.<sup>2824</sup>

1004. Another chilling aspect of the campaign of terror in Kissy was the deliberate targeting of vulnerable persons, especially children. A photograph taken in 1999 shows a young girl around 13 years of age who was in a group of adolescents rounded up by the rebels in Kissy on the 20-22nd January and taken up a hill where their hands were amputated.<sup>2825</sup> [REDACTED]

[REDACTED]  
[REDACTED]<sup>2826</sup>

1005. In addition to amputations, the rebels also beat civilians in Kissy. Aside from the beatings already described above,<sup>2827</sup> Mohamed Sesay recalled that when the queued civilians began to plead with the rebels for their arms, the commando blew a whistle and the rebels "came from all angles" to help subdue the civilians by forcing them to

<sup>2819</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20596-99 & Exh. P-208, pp. 20620-24.

<sup>2820</sup> Exh. P-208, p. 20623.

<sup>2821</sup> TF1-087, TT, 13 October 2008, p. 18124.

<sup>2822</sup> TF1-334, TT, 23 April 2008, pp. 8344-46.

<sup>2823</sup> TF1-278, TT, 29 January 2009, pp. 24024-28.

<sup>2824</sup> TF1-278, TT, 29 January 2009, p. 24031.

<sup>2825</sup> Dufka, TT, 22 January 2008, p. 1851 & Exh. P-142B: both hands were amputated.

<sup>2826</sup> [REDACTED]

<sup>2827</sup> TF1-097, TT, 16 October 2008, pp. 18572-73 and 17 October 2008, pp. 18578-79, 18609-10, 18627-30: witness was given a dozen lashes on the hand with an electric cable; Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20595: witness saw rebels in military dress beat people with belts and sticks; TF1-097, TT, 17 October 2008, pp. 18592-93: witness was hit with a gun butt and was hit on his back with the flat side of a machete during the course of his amputation by Captain Blood.

the ground, tying them up, and beating some of them before they were amputated.<sup>2828</sup>

[REDACTED]

[REDACTED]<sup>2829</sup> These acts terrorized the entire civilian population into obedience.

#### Fourah Bay

1006. After ECOMOG forces were unsuccessful in their attempt to advance toward Upgun on 17 January, they retreated back to Eastern Police while the AFRC/RUF forces maintained their hold on Fourah Bay between Eastern Police and Upgun. On 18 January, rebels kicked in the door of the house in Fourah Bay<sup>2830</sup> where Witness Alpha Jalloh was hiding. Alpha, his cousin Kasim, and his younger brother were pushed at gunpoint to Fatamarian Street nearby, where they joined Edward Conteh, Sheku Bah and two other men in a queue at the gate of a primary school. One by one, the men were called from the line for amputation: first Sheku, then Kasim, then Alpha's younger brother. When it was Alpha's turn, he was so panicked, he did not know where he was and could not look at the face of Tommy, the member of Captain Blood's group who was chopping the hands with an axe. Alpha's left hand was amputated. He and the other six amputees were told to go to Pa Kabbah for hands. As Alpha tried to make his way to Ginger Hall (sic),<sup>2831</sup> he saw his cousin for the last time: "the way I saw Kasim, I was broken-hearted. I met him lying there covering his face. I tried to pick him up but he was not able to turn, so I left him." Kasim died where he laid.<sup>2832</sup>

1007. [REDACTED]  
[REDACTED]:  
[REDACTED]

<sup>2828</sup> TF1-101, TT, 14 February 2008, pp. 3899, 3924.

<sup>2829</sup>

[REDACTED]

<sup>2830</sup> Exh. P-107, Manfred Lane is in Section N-4, which is the Fourah Bay area.

<sup>2831</sup> Exh. P-107, Jinger Hall is located in section N-4

<sup>2832</sup> TF1-098, TT, 23 October 2008, p. 19129-34 & and Exh. P-210 (AFRC Transcript of TF1-098, 5 April 2005), pp. 20687-92. The witness described the rebels who captured him as "mostly soldiers" and said some spoke Krio and some spoke the Liberian language.

2833

## Upgun

1008. During the third week of January, ECOMOG pushed its way to Mountain Cut and the AFRC/RUF fighting forces that had withdrawn from State House mounted a defensive at Upgun, setting up guard posts and ambushes all around the area. When Five-Five arrived in Upgun with Major Mines and Kabila, he said they should start amputating and he would demonstrate. A mortar used to pound pepper was brought and Five-Five amputated three captured civilians, telling them that they voted for Pa Kabbah so they should go and tell him. Immediately after this demonstration, Major Mines and Kabila started capturing civilians and amputating them as well, passing along the same message.<sup>2834</sup>

## Wellington

1009. The AFRC/RUF forces advanced through Wellington on their way to central Freetown in early January, attacking families in their homes. Akiatu Tholley described how rebels wearing black trousers, black t-shirts and mufflers came to her Wellington home on the night of January 5<sup>th</sup>, asking her mother for money. When her mother responded that she had none, the rebels beat Akiatu, her mother, brother and sister, then forced her mother to show them where she had money, which they took.<sup>2835</sup>

2836

1010. Witness Sarah Koroma described running into the bush near Wellington as the rebels approached because other civilians were saying that the rebels were capturing and maiming people. The terror was palpable: "The people were many and everybody was about, running for their lives." Hiding in the bush for a week, "I was not even feeling

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<sup>2834</sup> TF1-334, TTs, 23 April 2008, pp. 8328, 8334-39; 24 April 2008, pp. 8434-35.

<sup>2835</sup> TF1-085, 27 October 2008, p. 19192-95.

2836

hungry. Because we were afraid for our lives.”<sup>2837</sup> The rebels then ordered the civilians in hiding to return home or they would launch into the bush and everybody there would die. Sarah tried to return home, but she was captured and forced to sit on the ground in a queue for amputation. Her left hand was chopped off by rebels who said to tell Tejan Kabbah “they want peace.”<sup>2838</sup>

1011. Sarah’s nightmare continued as she tried to make her way to the hospital and a second group of rebels at the Brewery<sup>2839</sup> called to her, saying they had a doctor with them and would give her treatment. Sarah approached and suddenly the men she thought were going to help her were threatening to kill her, saying she was Tejan Kabbah’s mother and calling her a bastard. One of the rebels said he had no bullets in his gun so he threw empty beer bottles which hit her feet, then he kicked her into the gutter, hit her on the thigh, and took the money she had hidden in her dress.<sup>2840</sup>

1012. The rebels retreated through Wellington in a devastatingly violent fashion in the latter part of January. Witness Akiatu Tholley was on her way to the market when she heard people shouting that the rebels were coming and were setting houses on fire and amputating people. She ran home to tell her family and they locked all of the doors in the house. Rebels passing by heard children crying inside, broke down the door and amputated the first child they saw, who was around 3-4 years old. Akiatu was found hiding in the wardrobe and was taken outside where she was beaten and kicked. When she refused to go with the rebels, three of them beat her with a belt and the butt of a gun and dragged her to a mango tree where she lay unconscious with blood oozing all over her body. Ultimately forced to accompany the rebels on their retreat, Akiatu passed through Wellington and saw rebels burning down houses, capturing and amputating civilians.<sup>2841</sup>

1013. TF1-026 was also taken from her home in Wellington and forced to accompany the retreating forces. Before leaving Wellington, she saw RUF rebels amputate seven

<sup>2837</sup> TF1-331, TT, 22 October 2008, pp. 18985-89.

<sup>2838</sup> TF1-331, TT, 22 October 2008, pp. 18990-97. The Court noted the witness’ left arm was bandaged and amputated above the wrist; also noted was a scar above the thumb of her right hand resulting from a failed amputation attempt.

<sup>2839</sup>

<sup>2840</sup> TF1-331, TT, 22 October 2008, pp. 18997-19002: the witness still has scars on her foot from the bottles.

<sup>2841</sup> TF1-085, TT, 23 October 2008, pp. 19173-78: note that the witness states this occurred on 5 January 1999 but her subsequent movement with her captors from Wellington to Allen Town to Waterloo to Masiaka indicates that this incident occurred as the rebels withdrew from Freetown through Wellington, which occurred later in January.

civilian men and women in their 20s—the men were given long sleeve amputations and the women were given short sleeve. Her captors, led by CO Rocky, said she should witness what was happening because if she attempted to escape or do anything, they would do the same thing to her.<sup>2842</sup>

### Waterloo

1014. When witness Akiatu Tholley and her captors reached Waterloo during the retreat from Freetown, she saw rebels killing and amputating civilians there.<sup>2843</sup>

### Other Locations in Freetown and Western Area<sup>2844</sup>

1015. [REDACTED]  
[REDACTED]<sup>2845</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>2846</sup>

1016. Indeed, the physical violence which Witness Patrick Sheriff suffered at the hands of the ARFC/RUF as they advanced on Freetown in December 1998 epitomizes the viciousness of the rebels' treatment of civilians throughout the Freetown Invasion [REDACTED]  
[REDACTED] Sheriff was in Lumpa, a village close to Waterloo, with a friend when they were captured by an armed man speaking Liberian English after they refused to give him cigarettes and 5,000 leones. The two friends were taken to a group of rebels and forced to lie on the ground with three other men who were then killed, one after another. Sheriff, the next in line, lost all hope and thought he was about to die. Instead, the commander inexplicably decided that both Sheriff and his friend should be caned—Sheriff was to be given 150 strokes and his friend was to be given 200:

...we were lashed like dogs. ... After they had given me the 155 lashes, I had wounds on my body everywhere ... The commando who gave the order...took the butt of his gun and hit me at my private part. ... I was struggling for about 30

<sup>2842</sup> TF1-026, TT, 14 February 2008, pp. 3844-49.

<sup>2843</sup> TF1-085, TT, 27 October 2008, pp. 19196-98.

<sup>2844</sup> Although these towns in Freetown and Western Area were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of physical violence at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>2845</sup>

<sup>2846</sup>

minutes, unconscious, I started urinating blood and he told me I have too much of palm oil in my body, because I was wasting blood, he was referring to it as palm oil.<sup>2847</sup>

1017. Sheriff and his friend managed to escape into the Mabureh bush. The next day, Samuel Conteh and Sheriff's brother, Gibril Sheriff, came to the bush to help them. Unfortunately, six rebels who said they were from Gbarnga, Liberia, also appeared. The rebels had guns and a "small thing like a tennis ball" which would explode when it was thrown. The leader of the six rebels said his boss Peleto had sent them and they needed ten fingers. He said Gibril resembled former Liberian President Samuel K. Doe and they should cut off his fingers. Patrick tried to intervene on his brother's behalf, asking the rebels to kill him instead. Patrick's pleas were ignored.

They cut off all his ten fingers. When they finished they took those ten fingers and they said Peleto was going to make a chain out of it. Oh, Father God. When they put the fingers in the cup then they shot him. They shot him and he died on the spot and they went.<sup>2848</sup>

1018. These incidents in December 1998 were a harbinger of the cruel treatment that would be rained down on civilians in Freetown and the Western Area in the days and weeks to come. Defence witness and former RUF commander Issa Sesay tried to distance the RUF from these heartless crimes, claiming:

...the AFRC ... did the attack on Freetown. So amputation, including all other crimes that were committed during the Freetown invasion, they were the ones who did it, because we were not part of it.<sup>2849</sup>

1019. In spite of such claims, the evidence above clearly shows that both the AFRC and RUF were responsible for these violent acts.

#### **COUNT 8: EVIDENCE**

1020. In addition to the evidence referred to in the preceding paragraphs, the evidence referred to below should also be considered for guilt of the Accused under Count 8.

<sup>2847</sup> TF1-279, TT, 1 October 2008, pp. 17765-84: the beating occurred on 25 December 1998 based on witness' evidence that he heard the first gunshots in Lumpa on 17 December, hid in the bush for two days and then stayed in his home one night, then went back into the bush for five days before encountering the rebel with the gun at the junction.

<sup>2848</sup> TF1-279, TT, 1 October 2008, pp. 17784-92 and 3 October 2008, p. 17795: the witness' brother was killed on 26 December 1998. See also evidence re. Peleto, a member of the RUF and appointed by Issa Sesay as mining commander in Kono in 2000: TF1-015, TT, 8 January 2008, p. 720; TF1-568, TT, 15 September 2008, pp. 16183-85; TF1-367, TT, 20 August 2008, pp. 14142-43; DCT-172, TT, 2 August 2010, p. 45192.

<sup>2849</sup> DCT-172, TT, 6 July 2010, p. 43834.





also described how Philip Palmer's hand went numb for two months afterward because his nerves had been affected and the other prisoners had to feed him.<sup>2855</sup>

1023. The treatment of the external delegation, while horrifying, is arguably less severe than the crimes which were inflicted on the civilian population.

## IX.G. COUNT 9: CHILD SOLDIERS

### COUNT 9: APPLICABLE LAW

1024. In the AFRC Judgement Trial Chamber II adopted the following elements of the crime of conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, in addition to the contextual elements relevant to Article 4 of the Statute:

- (i) the perpetrator conscripted **or** enlisted one or more persons into an armed force or group **or** used one or more persons to participate actively in hostilities;
- (ii) such person or persons were under the age of 15 years;
- (iii) the perpetrator knew or should have known that such person or persons were under the age of 15 years;<sup>2856</sup>

1025. In relation to the first element of the offence the Prosecution relies upon the following footnoted sources of law in respect to the concepts of: "conscripting,"<sup>2857</sup> "enlistment"<sup>2858</sup> and "using."<sup>2859</sup> Further, it is submitted that the use of children in armed conflict is prohibited whether or not they have been formally enrolled into an armed force or group.

1026. The third element is concerned with the *mens rea* of the offence, as far as it relates to the accused's knowledge of the circumstance that the child was under fifteen year of

<sup>2855</sup> DCT-306, TT, 13 April 2010, pp. 38884-89 and DCT-306, TT, 15 April 2010, pp. 39113-15: the witness still has two scars around the inner circumference of his elbow; see also [REDACTED].

<sup>2856</sup> AFRC Trial Judgement, para. 729. Emphasis added to reflect the fact that the *actus reus* of the crime can be satisfied by 'conscripting' or 'enlisting' children under 15, or by 'using' them to participate in hostilities (see AFRC Trial Judgement, para. 734; confirmed by the Appeals Chamber in CDF Appeal Judgement, para. 140).

<sup>2857</sup> AFRC Trial Judgement, para. 734.

<sup>2858</sup> CDF Appeal Judgement, para. 140 -141 and 144 as well as Justice Winter's elaboration of the concept of enlistment in her Partially Dissenting Opinion in the CDF Appeal at paras. 11-12.

<sup>2859</sup> AFRC Trial Judgement, para. 737 and 1266-1267; RUF Trial Judgement, para. 188, Dissenting Opinion of Justice Robertson to Appeals Chamber Decision on Child Recruitment, para. 5, and the Report of the Preparatory Committee on the Establishment of an International Criminal Court, A/CONF. 183/2/Add. 1, 14 April 1998, p. 21 at footnote 12.

age. To satisfy this requirement the prosecution must prove that the perpetrator either knew or should have known that the child concerned was under the age of fifteen – full knowledge of the child’s age is therefore not required.<sup>2860</sup>

## COUNT 9: EVIDENCE

1027. The evidence proves beyond reasonable doubt the Accused’s guilt in respect of Count 9 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>2861</sup>

### General

1028. The evidence led in support of this Count comes from a variety of sources and perspectives. Former child soldiers<sup>2862</sup> told the Court how they were abducted by rebels when they were under 15 years of age, trained, and forced to actively participate in hostilities, either as front-line fighters or performing other conflict support roles such as food finders, bodyguards, or domestic servants.<sup>2863</sup> In turn, former adult members of the Indictment Perpetrators described how children were used by the rebel factions.<sup>2864</sup> Numerous experts, victims and bystanders also testified about the involvement of child soldiers in the Sierra Leone conflict.<sup>2865</sup> Ample documentary evidence supports each witness’ testimony.<sup>2866</sup>

1029. Child soldiers were ubiquitous in the Sierra Leone war. Thousands of boys and girls under the age of 15 participated in hostilities,<sup>2867</sup> most having been abducted by the Indictment Perpetrators.<sup>2868</sup> The RUF had a particularly high proportion of children

<sup>2860</sup> See *ICC Elements of Crimes*, Roy S. Lee, pages 18 and 207. Note also CDF Appeal Judgement, para. 141, also referred to in the RUF Trial Judgement at para. 192.

<sup>2861</sup> Indictment, para. 22; Amended Case Summary, para. 27; Pre-Trial Brief, paras. 7, 18-19, 44, 47, 59, 73, 75, 78, 80, & 130.

<sup>2862</sup> The following witnesses are former child soldiers: TF1-143, TF1-158, TF1-263 & TF1-314.

<sup>2863</sup> This Trial Chamber held that: “any labour or support that gives effect to, or helps maintain, operations in a conflict constitutes active participation” (see AFRC Judgement, paras. 737 and 1266).

<sup>2864</sup> These witnesses include: TF1-334, [REDACTED], TF1-375, [REDACTED], TF1-567, TF1-571, TF1-276, TF1-114, TF1-532, TF1-360, TF1-584, TF1-045, [REDACTED], DCT-306, DCT-172, DCT-292 and DCT-146.

<sup>2865</sup> e.g. Stephen Ellis, TF1-174, TF1-278, TF1-195, TF1-326, TF1-015, TF1-060, TF1-330, TF1-122, TF1-189, TF1-459, TF1-206, TF1-215, TF1-023, TF1-085, TF1-233, TF1-227, TF1-077, TF1-029, TF1-062, Corrine Dufka, TF1-028, TF1-406, TF1-548, TF1-104, TF1-577, [REDACTED], TF1-338.

<sup>2866</sup> e.g. Exh. P-43; Exh. P-303; Exh. P-309, Case #4; Exh. P-307; Exh. P-310; Exh. P-311; Exh. P-320; Exh. P-324; Exh. P-325; Exh. P-328; Exh. P-330; Exh. P-334; Exh. P-335; Exh. P-336; Exh. P-364; Exh. P-365; Exh. P-366.

<sup>2867</sup> See Exh. P-43. This report relies in part on official data collected by Sierra Leonean authorities. See also Exh. P-81, p. 3; Exh. P-130, para. 57; [REDACTED]

<sup>2868</sup> Exh. P-43, pp. 15, 22. Also see evidence on abductions below.

among its ranks.<sup>2869</sup> Child soldiers were a formal and integrated part of the rebel fighting forces with designated units known as “Small Boys Units” or SBUs and “Small Girls Units” or SGUs and were led by commanders.<sup>2870</sup>

1030. Child soldiers were used because they were braver<sup>2871</sup> and more obedient than adults.<sup>2872</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>2873</sup> Some children had scars under their eyes or on their temples where commanders cut the children and applied drugs.<sup>2874</sup> Witness TF1-158 still has such a scar under his left eye where he was injected with a brown powdery drug. He said cocaine made him act like a “mad person.”<sup>2875</sup>

1031. The practice of routinely conscripting, enlisting and using children under the age of 15 to actively participate in hostilities by the Indictment Perpetrators in Sierra Leone has links to the similar practice of the NPFL in Liberia. As detailed below, even the terms used to describe child soldiers – Small Boy Units or “SBUs” - was taken directly from the NPFL. Dr. Ellis gave expert testimony that:

the RUF also had a formally-established Small Boy Unit, and it is quite likely that the latter was created in imitation of the NPFL's unit of the same name. Moreover, the administration of drugs to young fighters was a marked feature of the NPFL

<sup>2869</sup> Exh. P-43, p. 19; Ellis, TT, 16 January 2008, p. 1435; [REDACTED] 23665-23671. When the RUF arrived in Makeni following the May 1997 coup, TF1-174 counted about 400 children mostly under the age of 15 at the RUF base at Teko Barracks. The witness learned that the children had been captured by the RUF in different towns. He noted that the RUF used child soldiers below the age of 15 in Makeni, essentially until the rebel faction disarmed. [REDACTED]

[REDACTED] : Exh. P-307, para. 32.

<sup>2870</sup> [REDACTED]. See also TF1-375, TT, 23 June 2008, p. 12481; DCT-306, TT, 20 April 2010, p. 39458.

<sup>2871</sup> TF1-532, TT, 31 March 2008, pp. 6205-06.

<sup>2872</sup> TF1-174, TT, 27 January 2009, pp. 23698-23702: RUF MP Jalloh told the population to “donate” young children to the rebels, explicitly stating the RUF preferred children as they were easier to command than adults.

<sup>2873</sup> [REDACTED]

<sup>2874</sup> TF1-326, TT, 18 January 2008, p. 1679. The children were given cocaine, ‘blue boat’ (a blue liquid), amphetamines (blue and red tablets), “brown brown” (heroin) and Begapack (local alcohol).

<sup>2875</sup> TF1-158, TT, 21 October 2008, pp. 18824, 18846, 18920, 18834. See also the testimony of TF1-143 who received blue tablets from his rebel boss which made him bold and turned his eyes red and marijuana to smoke (TT, 5 May 2008, pp. 8992, 9004-6).

that was also to recur among the RUF. It is highly likely that this particular abuse was learned by the latter from the former.<sup>2876</sup>

1032. Dr. Ellis' assessment is supported by the witness and documentary evidence presented in this case. Both Isaac Mongor and [REDACTED] testified that civilians, including young children under the age of 15, were abducted by Taylor's NPFL rebels in Liberia, divided into SBUs and SGUs and trained militarily.<sup>2877</sup> Mongor, who served in the Accused's Executive Mansion Security Guard,<sup>2878</sup> also confirmed that this unit included an SBU consisting of children between the ages of 10 and 12 who served as guards and front-line fighters.<sup>2879</sup> These troops, including the SBUs, were inspected by the Accused every day during morning parade.<sup>2880</sup> Indeed, the Accused's use of child soldiers in Liberia was acknowledged in the documents submitted as part of his defence. In a 1992 newspaper report prepared following time spent "behind the lines with Charles Taylor and his forces," the existence of the Small Boys Unit is noted as is the fact that the Accused had "12,000 men, women, boys and girls in uniform (his regular army)."<sup>2881</sup>

1033. The RUF's use of child soldiers was facilitated in Liberia as their child soldiers were trained at Camp Naama<sup>2882</sup> alongside the Accused's own NPFL SBUs.<sup>2883</sup> The RUF's use of child soldiers was further facilitated as the evidence establishes that throughout the war in Sierra Leone Liberian child soldiers arrived with the Liberian fighting forces that supported the Indictment Perpetrators.<sup>2884</sup>

<sup>2876</sup> Exh. P-31, p. 15.

<sup>2877</sup> TF1-532, TT, 10 March 2008, pp. 5648-51, 5664, 6279; [REDACTED]

<sup>2878</sup> TF1-532, TT, 10 March 2008, pp. 5653, 5657.

<sup>2879</sup> TF1-532, TT, 10 March 2008, p. 5655, 5659.

<sup>2880</sup> TF1-532, TT, 10 March 2008, pp. 5654-5. See also TF1-561, TT, 14 May 2008, pp. 9824-26: this witness described the presence and use of SBUs by the NPFL; TF1-588, TT, 22 September 2008, p. 16792: while covering the Liberian conflict in the early 1990s, Smith observed that the Accused's security consisted of an outer ring of security comprising child soldiers – girls and boys – some aged between 10/11.

<sup>2881</sup> Exh. D-118, pp. 2-3. See also Exh. D-301, p. 154: "On 20 September [1990] ... we boarded four-wheel-drive vehicles and crossed ten miles into Liberia to meet with Charles Taylor. The most striking, and frightening, aspect of Taylor's forest hideaway was the overwhelming presence of heavily armed 14-to-16 year old boys."

<sup>2882</sup> [REDACTED]; TF1-532, TTs, 10 March 2008, pp. 5661-65 & 31 March 2008, pp. 6204-5. TF1-532 gave the example of "Base Marine" who was only 9 when he was trained by the RUF (p. 6205). [REDACTED]

<sup>2883</sup> [REDACTED]; TF1-532, TT, 10 March 2008, p. 5664.

<sup>2884</sup> TF1-326, TT, 18 January 2008, p. 1666; Alexander Report, p. 14. See also the testimony of TF1-334 who told the court that, following the 1998 Intervention, Commander KBC arrived from Liberia with a group of

1034. Child soldiers were, therefore, incorporated into the ranks from the RUF's inception and the abduction and training of children formed a vital part of its *modus operandi* and the campaign of terror.<sup>2885</sup>

1035. Indeed, documents and witnesses alike record that the recruitment, training and use of child soldiers was a strategy sanctioned and intended by rebel commanders at the highest levels.<sup>2886</sup> Issa Sesay, the interim leader of the RUF, testified that he knew that "children around the age of 14, 15 fought alongside the RUF."<sup>2887</sup>

[REDACTED]

[REDACTED]<sup>2888</sup>

[REDACTED]<sup>2889</sup>

[REDACTED]<sup>2890</sup>

[REDACTED]<sup>2891</sup>

In 1998, Issa Sesay and Morris Kallon came to PC Ground on the orders of Sam Bockarie to arrange for civilians to be sent to Kailahun for training.<sup>2892</sup> Those who were to be sent for training were screened first and included children such as Kumba Sumana.<sup>2893</sup> The RUF High Command's intention is further demonstrated by the document seized from Foday Sankoh's house and titled "Nominal Roll of Trained RUF Personnel."<sup>2894</sup> This document lists the names of child soldiers and includes details of "where/when captured," "base trained," "name of training commandant," "year trained" and a "remarks" section which sets out whether the

fighters, including two small boys, to reinforce the AFRC/RUF forces that fled Freetown and were heading to Makeni. Commander KBC's group had been assembled in Liberia and sent to Sierra Leone by the Accused (TTs, 17 April 2008, p. 7929-7930; 18 April 2008, p. 7975; 23 April 2008, p. 8400; 24 April 2008, pp. 8436-37).

<sup>2885</sup> See in particular Exh. P-78, p. 10.

[REDACTED]<sup>2886</sup>

<sup>2887</sup> DCT-172, TT, 16 August 2010, p. 46330. See also pp. 46332-33. See also DCT-306, TT, 20 April 2010, p. 39456; Exh. D-12, paras. 148-149.

[REDACTED]<sup>2888</sup>

[REDACTED]<sup>2889</sup>

[REDACTED]<sup>2890</sup>

[REDACTED]<sup>2891</sup>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>2892</sup> TF1-263, TT, 6 October 2008, pp. 17926-27.

<sup>2893</sup> TF1-263, TT, 6 October 2008, p. 17927.

<sup>2894</sup> Exh. P-364.

individual was trained by RUF or SLA. This RUF document records that children were abducted from and trained at various locations throughout Sierra Leone and covers the period 1991 until 1999.<sup>2895</sup>

1036. Indeed, the attachment of child soldiers to senior leaders was observed by numerous witnesses.<sup>2896</sup> Child soldiers, both male and female, carrying AK-47s were present at the building where Mosquito was staying in Kenema during the Junta period.<sup>2897</sup> Child combatants were attached to Gunboot, Tina Musa, and Brigadier Five-Five at Benguema in February 1999.<sup>2898</sup> In Kailahun Town from 1996 to 2000, RUF commanders such as Issa Sesay, Mosquito, Augustine Gbao were accompanied by children of 9 and 10 years old carrying guns.<sup>2899</sup>

1037. Senior leaders of the AFRC/RUF were engaged by the UN specifically on the issue of child soldiers. In a UN report noting the pattern of AFRC/RUF forces to take children as potential recruits, it also records that Foday Sankoh was briefed on human rights abuses by the Secretary-General's Special Representative in Sierra Leone and undertook to investigate.<sup>2900</sup> Further, in official documents dealing with Liberia's compliance with Security Council resolutions, significantly the existence of child soldiers in Sierra Leone was not disputed. The source of dispute was rather when they should be released, the order of the RUF High Command being first required.<sup>2901</sup> In this regard, Issa Sesay consulted with the Accused about the disarmament of child combatants in 2001.<sup>2902</sup>

<sup>2895</sup> Note also TF1-360, TT, 5 February 2010, p. 3129; Exh. P-51. TF1-360 identified this Exhibit as a document which contains lists of RUF members. The witness explained that if a person had "SBU" written against his name, this meant he was in a Small Boy Unit. SBUs ranged in age from 12 to 15.

<sup>2896</sup> TF1-276, TT, 23 January 2008, p. 2056-57: RUF leaders, including Sam Bockarie, Issa Sesay, and Morris Kallon "had" SBUs. The witness, a former RUF member, also had two SBUs. See also [REDACTED]; TF1-045, TT, 12 November 2008, p. 20145.

<sup>2897</sup> Exh. P-174 (RUF Transcripts of TF1-122, 7-8 July 2005), pp. 15160-61: soldiers were aged "12, 13, 14 up to 18," the witness having earlier told the Court that as a father of many children he was able to assess children's ages (p. 15123). See also TF1-060, TT, 29 September 2008, pp. 17540-2: from 16 August 1997, Sam Bockarie used to come to Tongo Fields to collect diamonds, accompanied by child combatants aged between 12 and 14 years old.

<sup>2898</sup> Exh. P-215 (AFRC Transcripts of TF1-227, 8, 11 & 12 April 2005), pp. 20841, 20846-8, 20875-6.

<sup>2899</sup> TF1-330, TT, 19 February 2008, pp. 4280-1: the rebels who captured them trained them to use guns.

<sup>2900</sup> Exh. P-313, paras. 32-33.

<sup>2901</sup> Exh. P-325, para. 20.

<sup>2902</sup> TF1-338, TT, 2 September 2008, pp. 15173-5.

## Abductions

1038. Former high ranking RUF commander Isaac Mongor testified that SBUs had no choice but to join the RUF.<sup>2903</sup> Augustine Mallah, also a former RUF member, confirmed that “most [SBUs], or even all of them, were captured by the RUF.”<sup>2904</sup>

1039. Children were abducted from all over Sierra Leone and trained and used as child soldiers throughout the conflict but many of the abductions took place in 1998 and 1999.<sup>2905</sup> In the pre-Indictment period, the pattern which continued into the Indictment period was established.<sup>2906</sup> The following examples of abduction were provided by witnesses.

1040. In 1995-1997, the RUF abducted girls and boys between the ages of 12 and 16 from towns around Kangari Hills.<sup>2907</sup> During Operation Pay Yourself in 1998, children were abducted in Makeni and also in most of the towns through which the retreating AFRC, RUF and STF forces passed en route to Koidu.<sup>2908</sup> In February or March of the same year, armed RUF rebels abducted many boys and girls in the villages surrounding Koidu.<sup>2909</sup> From March 1998 to December 1999, about 500 children were abducted by AFRC/RUF fighters in Buedu.<sup>2910</sup>

1041. Three former child soldiers testified about their abductions all of which occurred in 1998. Witness TF1-158 was about 10 years old when he was abducted in May 1998 in Bonoya, Bombali District.<sup>2911</sup> Some of the rebels who abducted him were dressed in

<sup>2903</sup> TF1-532, TT, 31 March 2008, p. 6206.

<sup>2904</sup> TF1-045, TT, 12 November 2008, p. 20145. See also DCT-306, TT, 20 April 2010, p. 39457.

<sup>2905</sup> Exh. P-43, p. 15. For evidence of the practice of abducting and training child soldiers after the AFRC/RUF Junta rose to power see TF1-326, TT, 18 January 2008, pp. 1673-4; TF1-334, TTs, 18 April 2008, p. 7977; 21 April 2008, pp. 8060-2, 8099, 8102; 23 April 2008, pp. 8376, 8391, 8395-6, 8400; 24 April 2008, pp. 8474-5. See also Corinne Dufka, TT, 21 January 2008, pp. 1811-14. See further TF1-532, TT, 31 March 2008, p. 6205-6; TF1-045, TT, 12 November 2008, p. 20145; TF1-577, TT, 4 June 2008, p. 10897 (“Q. And to your knowledge for how long did the RUF have SBUs unit? A. Right up to the time for the final peace there was SBU in existence”); DCT-146, TT, 12 April 2010, p. 38767 (“Q. And throughout the conflict the RUF used children under the age of 15 years. Isn't that right? A. all this that you're talking about, the whole world knows about that. It happened. It happened, you're right.”)

<sup>2906</sup> e.g. TF1-375 was abducted by the RUF in 1991 age 11 (TT, 23 June 2008, pp. 12475-7) and TF1-314 was 10 years old when RUF rebels abducted her in Masingbi in 1994. From 1994 to 1998, TF1-314 frequently observed rebels bringing abducted children to Buedu (TT, 20 October 2008, pp. 18663, 18665-9, 18677, 18687-8).

<sup>2907</sup> TF1-360, TT, 5 February 2010, p. 3085, 3087.

<sup>2908</sup> TF1-360, TT, 5 February 2010, pp. 3099, 3100-1.

<sup>2909</sup> TF1-114, TT, 15 January 2008, pp. 1236, 1238, 1243-5.

<sup>2910</sup> TF1-114, TT, 15 January 2008, pp. 1265-6, 1276-7, 1354.

<sup>2911</sup> TF1-158, TT, 21 October 2008, pp. 18813-5. The rebels abducted the witness and other civilians, taking them at gunpoint from the mosque and killing those who resisted. The rebels took civilians with them, forcing them to carry food stolen from the locals (p. 18821). As for the timing of the abduction, first the witness

full or partial uniform, some had red headbands and some wore boots.<sup>2912</sup> Some also spoke a Liberian language.<sup>2913</sup> Kumba Sumana was 13 years old when he was captured by Liberian rebels around April or May 1998 while hiding in the bush near Benguema town.<sup>2914</sup> His younger brother was also abducted by rebels.<sup>2915</sup> Witness TF1-143, born in 1986, was 12 years old when he was abducted by subordinates of SAJ Musa<sup>2916</sup> with about 50 other children around September 1998 in Konkoba, Koinadugu District.<sup>2917</sup>

1042. In the aftermath of the Freetown Invasion, the UN reported that “some 2,000 children had gone missing in Freetown alone since 6 January,” the abduction by rebels of some 300 having been witnessed by child care agency staff.<sup>2918</sup> “Escapees further reported that abducted boys were selected for training as fighters.”<sup>2919</sup> When the RUF returned to Makeni in January 1999, the population was told to “donate” young children to the RUF. About 3,000 children were subsequently enlisted, some as young as 11. Children were also abducted and forcefully recruited.<sup>2920</sup>

1043. In May 2000, in anticipation of further military action by the RUF including cross-border raids into Guinea, “recruitment operations” in villages around Makeni and

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testified that he was abducted before President Kabbah was reinstalled (18889) but later his memory was refreshed through a prior statement and he corrected the date to May 1998 (18904).

<sup>2912</sup> TF1-158, TT, 21 October 2008, pp. 18819-20.

<sup>2913</sup> TF1-158, TT, 21 October 2008, pp. 18819-20; the witness recognized the Liberian language as he had heard it before. He first heard Liberian being spoken by ECOMOG members who were based in Kamabai, where his family had an orange grove. He saw the inscription ‘LIB’ on their badges, and his brother had told him they were Liberians (pp. 18849, 18851, 18853). His colleague Sorie also told him the rebels were speaking Liberian (p. 18855). It is recalled that when Liberian speaking rebels abducted Witness TF1-567 in Pendembu Town, in May 1991, they also abducted boys who were younger than 16 years old (see TTs, 2 July 2008, pp. 12818-9 & 7 July 2008, pp. 13057-8). In addition, when rebels who arrived from Liberia abducted Witness TF1-571, also in early 1991, in Gegbwema village (Kenema), they also abducted two boys around the age of 10 (see TF1-571, TT, 8 May 2008, pp. 9313-5).

<sup>2914</sup> TF1-263, TTs, 6 October 2008, p. 17879; 7 October 2008, pp. 18007-9, 18021-2, 18053; Exh. P-185. For a general description of the abduction and the attire and language of the abducting rebels see TF1-263, TT, 6 October 2008, pp. 17907-10. The witness was not sure in which month he was abducted, but testified that it was during the rainy season, and the mango season, and after all the civilians had been driven out of Koidu and only rebels remained there (TT, 6 October 2008, p. 17912 & TT, 7 October 2008, p. 18009). According to other Prosecution evidence, the mango season in Kono lasts from April to May (see Exh. P-199A (RUF Transcript of TF1-304, 13 January 2005), p. 18967). In the RUF Judgement, the Trial Chamber accepted this evidence as establishing the time of the mango season in Kono (see RUF Trial Judgement, para. 510).

<sup>2915</sup> TF1-263, TT, 6 October 2008, pp. 17994-7.

<sup>2916</sup> TF1-143, TT, 5 May 2008, p. 8985 & [REDACTED].

<sup>2917</sup> TF1-143, TT, 5 May 2008, pp. 8968, 8970-1, 8973, 8975-7, 8979, 8985, 8989. The children were subsequently distributed among the commanders. The witness and a boy named Short Pepper were “given” to Commander Kabila (p. 8979). Shortly after the witness was abducted, his group arrived at Koinadugu Town, where the rebel commanders “gave” SAJ Musa two boys (pp. 8983, 8985-6).

<sup>2918</sup> Exh. P-310, para. 26.

<sup>2919</sup> Exh. P-310, para. 26.

<sup>2920</sup> TF1-174, TT, 27 January 2009, pp. 23698-23702.



Kabala were conducted and, in Kabala, resulted in “some 40 civilians, mostly young men” being rounded up and tattooed with the letters ‘RUF’.”<sup>2921</sup>

1044. To prevent escape, abducted child soldiers had ‘RUF’ or ‘AFRC’ carved onto their chests and arms.<sup>2922</sup> Indeed, judicial notice was taken of the International Medical Corps press release of 4 September 2001 which states:

For hundreds of children and child soldiers in Sierra Leone, the 10-year civil war left scars that could only be healed with the help of IMC’s plastic surgery program ... Without plastic surgery, the child victims might never be able to return to their communities and reintegrate into society. The torment of the scars was so great that some children tried to burn them off with caustic soda, which only made them worse.<sup>2923</sup>

### **Military Training**

1045. Throughout the conflict, there was a highly organised system of military training at the bases of the Indictment Perpetrators in Sierra Leone in which children were included.

1046. The foundations of this system were laid shortly after the initial invasion of Sierra Leone in 1991 as the RUF quickly set up a series of military training bases where civilians including children were forcibly trained.<sup>2924</sup> The NPFL fighters who participated in the invasion were instrumental in the training provided at these bases.<sup>2925</sup>

<sup>2921</sup> Corinne Dufka, TT, 21 January 2008, p. 1814.

<sup>2922</sup> TF1-326, TT, 18 January 2008, pp. 1665-6; TF1-143, TT, 5 May 2008, pp. 8976-7: the witness’ chest was carved with ‘RUF’, and he explained that the rebels carved ‘RUF’ or ‘AFRC’ on the chests and/or foreheads of all the children. See also [REDACTED]

TT, 21 January 2008, p. 1814; [REDACTED]; Dufka,

<sup>2923</sup> Judicially Noticed Fact AH. The press release was titled “IMC Plastic Surgeons Remove the Scars of War in Sierra Leone.”

<sup>2924</sup> A training camp which trained *inter alia* children was set up in 1991 in Pujehun, Sierra Leone (see [REDACTED]; TF1-360, TT, 4 February 2008, pp. 3024-27). TF1-571 testified that out of about 500 recruits who received training with him at a base at Gisiwulo, Pujehun, around 50 were children between the ages of 10 and 15 years old (see TF1-571, TT, 8 May 2008, pp. 9317, 9320-2). A training camp was also located at Dia, Kailahun District in April 1991. At Dia, young boys and girls between 8 and 13 years old were placed in SBUs and SGUs. There were about 80 SBUs and SGUs out of the 300 recruits at the base (see TF1-584, TT, 17 June 2008, pp. 12048-52, 12061). Witnesses also testified about a training base at Pendembu Vocational Secondary School in May 1991 (see TF1-567, TTs, 2 July 2008, pp. 12818-9, 12821-3 & 7 July 2008, pp. 13057-8; TF1-375, TT, 23 June 2008, pp. 12475-7). In relation to the Pendembu base, TF1-567 testified that about 100 recruits were receiving military training there, including boys and girls as young as 13. By the time TF1-567 completed his two-month training, about 800 recruits were receiving military training there, including children as young as 12.

<sup>2925</sup> See [REDACTED]. See also TF1-360, TT, 4 February 2008, pp. 3024-27. See further TF1-584, TT, 17 June 2008, pp. 12053-4; TF1-567, TT, 2 July 2008, pp. 12820, 12825-6; TF1-375, TT, 23 June 2008, pp. 12475-7: the witness was abducted by the RUF in 1991 aged 11 and trained at Pendembu by Sierra Leonean and Liberian trainers including Monica Pearson.

The training received by the children was extensive. Karmoh Kanneh, who was trained at a base in Pujehun in 1991, was “taught ... how to lay an ambush, how to attack, how to make an area fearful” and explained that children under 15 years old received the same training as the adults.<sup>2926</sup>

1047. These military training bases continued operating at various locations during the Indictment Period and followed certain procedures. When abducted civilians were brought to the base, their name, age, and state of health were recorded and reported to the camp commanders. They were subsequently divided into units according to their age and gender; children between 8 and 15 years of age were placed in SBUs and SGUs.<sup>2927</sup> Thereafter, the young children received the same military training as the adults, covering combat techniques, discipline, and weapons.<sup>2928</sup>

1048. Monica Pearson, a Liberian woman who trained at Camp Naama, was one of the most well known RUF military trainers. She trained child soldiers at various RUF bases throughout Sierra Leone from 1991 until 2000.<sup>2929</sup>

<sup>2930</sup>

<sup>2931</sup> At Bunumbu in 1998, over 200 abducted civilians received military training,

<sup>2926</sup> TF1-571, TT, 8 May 2008, pp. 9321-3. See also TF1-360, TT, 4 February 2008, pp. 3024-27: this witness received 2 months of guerilla and weapons training. See further TF1-584, TT, 17 June 2008, pp. 12055, 12063: SBUs and SGUs were given combat training for 3 months. Also see TF1-375, TTs, 23 June 2008, pp. 12475-7 & 22 August 2008, p. 14321: training at Pendembu covered the use of weapons such as AK-47s, RPG, and GMG.

<sup>2927</sup> [REDACTED]

<sup>2928</sup> Also see TF1-567, TT, 2 July 2008, p. 12825; TF1-314, TT, 20 October 2008, pp. 18678-80. Also see TF1-276, TT, 23 January 2008, p. 2058; [REDACTED]; TF1-567, TT, 2 July 2008, p. 12822; [REDACTED]; TF1-571, TT, 8 May 2008, pp. 9321-2.

<sup>2929</sup> TF1-567, TT, 2 July 2008, pp. 12818, 12820, 12825; [REDACTED]

<sup>2930</sup> See para. 1046 above.

<sup>2931</sup>

including young children.<sup>2932</sup> [REDACTED]

[REDACTED]<sup>2933</sup>

1049. Edna Bangura and Kumba Sumana were both trained by Monica Pearson in Buedu. Bangura was trained for two weeks by Pearson in 1994, together with other children under the age of 15.<sup>2934</sup> From 1994 until 1998, she frequently observed rebels bringing abducted children to receive training from Pearson.<sup>2935</sup> In 1998, 14-year old Sumana was trained by Monica at the base near Buedu, for about two months.<sup>2936</sup> After training, Mosquito asked the recruits to line up in four lines to receive guns. Two lines consisted only of children.<sup>2937</sup> Both former child soldiers testified that their training covered combat techniques and weapons.<sup>2938</sup>

1050. The other former child soldiers who testified before this Chamber also received military training from the rebels. Witness TF1-143 was 12 years old when he and other children his age were trained by an RUF rebel in Koinadugu District in 1998.<sup>2939</sup> Later in 1998, this witness received more military training with other children pursuant to an order from rebel commander O-Five in preparation for the January 1999 attack on Freetown.<sup>2940</sup> Witness TF1-158 was about 10 years old when he was trained by AFRC/RUF fighters at Camp Rosos in 1998 along with 300 other civilians including children as young as 8 years old.<sup>2941</sup> The witness later received training on weapons in Kamabai, Bombali District, with other children from the age of 10 years old.<sup>2942</sup>

1051. Other witnesses observed the training of children throughout Sierra Leone. From 1995 to May 1997, children between the ages of 12 and 16 were trained by the RUF at a

<sup>2932</sup> TF1-577, TT, 9 June 2008, pp. 11350.

<sup>2933</sup> [REDACTED]

<sup>2934</sup> TF1-314, TT, 20 October 2008, pp. 18673-4, 18676-7, 18701. Note TF1-314 is mistaken as regards the date as Pearson was not training in Buedu in 1994. However, her evidence that Monica was a trainer of child soldiers at Buedu albeit later is otherwise supported by evidence on the record. See section IX.A above regarding the jurisprudence on the accuracy of dates.

<sup>2935</sup> TF1-314, TT, 20 October 2008, pp. 18677, 18687-8.

<sup>2936</sup> TF1-263, TT, 6 October 2008, pp. 17928-9 & 7 October 2008, p. 18054.

<sup>2937</sup> TF1-263, TT, 6 October 2008, pp. 17936-7, 17939-40 & 7 October 2008, pp. 18031-3.

<sup>2938</sup> TF1-263, TT, 6 October 2008, p. 17930; TF1-314, TT, 20 October 2008, pp. 18676-7.

<sup>2939</sup> TF1-143, TT, 5 May 2008, pp. 8981, 9011-2. TF1-143's rebel "boss" Kabila gave the witness more military training later, together with another young boy, at the Jorbush forest in Koinadugu District (see TT, 5 May 2008, pp. 8986-7). See also TF1-375, TT, 24 June 2008, pp. 12566-70.

<sup>2940</sup> TF1-143, TT, 5 May 2008, pp. 8991-2, 8995, 9004-6.

<sup>2941</sup> TF1-158, TT, 21 October 2008, pp. 18821-7.

<sup>2942</sup> TF1-158, TT, 21 October 2008, pp. 18831-2: witness managed to escape Rosos after five days there, but was later caught by rebels and taken to the training camp in Kamabai, Bombali District. This was around the time the Lomé Peace Accord was signed (see TT, 21 October 2008, pp. 18826-31).

training base in Kangari Hills.<sup>2943</sup> In February or March 1998 in Kono, children from the age of 12 were given guns by the RUF and sent for training so they could fight for the RUF.<sup>2944</sup> In March 1998, children between the ages of 8 and 13 were routinely trained at PC Ground in SBUs or SGUs.<sup>2945</sup> In April/May 1998 in Kono District, Emmanuel Bull along with 16 to 20 others including 5 to 7 “small, small boys” “age 13, 14” were trained militarily for 2 weeks on the orders of the AFRC/RUF “boss,” Bai Bureh, as the “AFRC/RUF guys were losing some men ... in Koidu Town.”<sup>2946</sup> From March 1998 to December 1999, about 500 children were recruited and sent for training by the AFRC/RUF in Buedu.<sup>2947</sup> In 1999, children between the ages of 11 and 15 were given military training by the RUF at the Agricultural Road compound in Makeni.<sup>2948</sup> Following the Freetown Invasion, captives were trained how to use guns and hide by rebels in Port Loko alongside boys as young as 8 before being sent to Kurubonla to fight.<sup>2949</sup>

1052. The training received by the children was brutal.<sup>2950</sup> Child soldiers were often beaten with a cane and deprived of food and medication during training.<sup>2951</sup> Kumba Sumana showed the court the scars he still has on his leg from training.<sup>2952</sup> Some of the combat techniques practiced were dangerous [REDACTED]<sup>2953</sup>

[REDACTED]<sup>2954</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>2955</sup> [REDACTED]  
[REDACTED]<sup>2956</sup> [REDACTED]

<sup>2943</sup> TF1-360, TT, 5 February 2010, p. 3088.

<sup>2944</sup> TF1-114, TT, 15 January 2008, pp. 1236, 1238, 1245, 1257, 1272.

<sup>2945</sup> TF1-584, TT, 19 June 2008, pp. 12218-9.

<sup>2946</sup> TF1-459, TT, 25 September 2008, pp. 17283, 17313, 17316-8, 17328, 17331, 17317 (see Exh. P-183, “9” indicates the location of the base). See also TF1-334, TT, 21 April 2008, pp. 8060-62.

<sup>2947</sup> TF1-114, TT, 15 January 2008, pp. 1276-7, 1354.

<sup>2948</sup> TF1-174, TT, 27 January 2009, pp. 23698-23702: the training took place after the meeting in Makeni around January 1999 when RUF MP Jalloh requested the population to “donate” young children to the rebels. About 3,000 children were subsequently enlisted, some as young as 11. Children were also abducted and forcefully recruited.

<sup>2949</sup> TF1-085, TT, 27 September 2008, p. 19216-7: TF1-085 identified her captor, Captain James, as STF and a commander. She also identified Five-Five and Issa Sesay as other commanders present with her group in Masiaka (p. 19204-5).

<sup>2950</sup> See below regarding the physical violence experienced by child soldiers.

<sup>2951</sup> TF1-567, TT, 2 July 2008, pp. 12822-3.

<sup>2952</sup> TF1-263, TT, 6 October 2008, pp. 17931-6.

<sup>2953</sup>

<sup>2954</sup>

<sup>2955</sup>

<sup>2956</sup>

Also TF1-263, TT, 6 October 2008, pp. 17931-6.

[REDACTED]  
[REDACTED]<sup>2957</sup> The purpose of such brutal training was summarised by expert witness Dr. Ellis:

children ... abducted at a very young age, 7, 8, 9 years old, ... then [went] through an initiation which brutalised them and [created the] state of mind of somebody who is prepared to cut off the hands of people who they have never met and against whom they have apparently no personal grudge, and who aren't even necessarily government supporters.<sup>2958</sup>

### **Fighting and other "active hostilities" activities**

1053. Child soldiers were armed and used as front-line fighters at all times during the war in Sierra Leone and throughout the country.<sup>2959</sup> As soon as they were physically big enough to carry weapons, child soldiers were given AK-47s and other weapons, and began amputating, raping and looting.<sup>2960</sup> Sometimes the children were so small that their guns dragged along the ground.<sup>2961</sup>

1054. Child soldiers were forced to participate in numerous rebel attacks. Kumba Sumana described his involvement in several attacks which occurred during the Indictment Period: an attack on the town of Mongo Bendugu (near the Guinean border),<sup>2962</sup> two attacks on Kabala,<sup>2963</sup> an attack on the town of Binkolo (where he helped burned down a house),<sup>2964</sup> an attack in Makeni,<sup>2965</sup> and an attack at Gberi Junction near Lunsar.<sup>2966</sup> The witness also served as the bodyguard of an RUF radio operator named Blood.<sup>2967</sup>

1055. Child soldiers were expected to repeat the crimes committed by their commanders.<sup>2968</sup> Both RUF and AFRC fighters ordered their SBUs to amputate arms.<sup>2969</sup> Indeed, between September and December 1998, Gullit ordered his SBUs to amputate civilians

<sup>2957</sup> [REDACTED]  
<sup>2958</sup> Stephen Ellis, TT, 18 January 2008, p. 1624.

<sup>2959</sup> TF1-532, TT, 31 March 2008, p. 6205. See also TF1-577, TT, 4 June 2008, p. 10897: witness met SBUs he had trained with at Pendembu in 1991 at the front line at Target C. See further DCT-306, TT, 20 April 2008, p. 39456.

<sup>2960</sup> TF1-326, TTs, 18 January 2008, pp. 1678, 1680 & 21 January 2008, p. 1683.

<sup>2961</sup> TF1-015, TT, 8 January 2008, p. 697. Also see TF1-085, TT, 27 October 2008, pp. 19241-2, 19244-5.

<sup>2962</sup> TF1-263, TT, 6 October 2008, p. 17945.

<sup>2963</sup> TF1-263, TT, 6 October 2008, pp. 17960-1, 17964.

<sup>2964</sup> TF1-263, TT, 6 October 2008, p. 17970.

<sup>2965</sup> TF1-263, TT, 6 October 2008, pp. 17973-74.

<sup>2966</sup> TF1-263, TT, 6 October 2008, pp. 17977-80. The witness was also ordered by Issa to participate in "Operation No Living Thing" in Koidu Town, but managed to avoid participating in the attack (see TT, 6 October 2008, pp. 17936-7, 17940-1).

<sup>2967</sup> TF1-263, TT, 6 October 2008, p. 17971.

<sup>2968</sup> TF1-334, TT, 21 April 2008, pp. 8103, 8159-62.

<sup>2969</sup> TF1-334, TTs, 18 April 2008, p. 7978 & 21 April 2008, pp. 8063-64.

in the Rokulan area.<sup>2970</sup> At Sawoa in Kono District in February 1998, a small boy under 14 years old amputated the right hands of 5 men with a cutlass, while the women were forced to clap and laugh. Sia Kamara, who witnessed this event, had the upper part of her right arm chopped by the small boy.<sup>2971</sup> In Koidu town in April 1998, an RUF fighter named Rocky shot and killed a group of over a hundred civilian men, and ordered SBUs to decapitate them. The child soldiers, aged 15 and under, executed this order and decapitated them.<sup>2972</sup> In Makeni and its surroundings, armed child soldiers participated in various atrocities during "Operation Pay Yourself" between February and March 1998.<sup>2973</sup> Child soldiers frequently burned down houses.<sup>2974</sup> SBUs also used abducted women and girls as young as 8 years old as sex slaves.<sup>2975</sup>

1056. [REDACTED]

[REDACTED]<sup>2976</sup>

1057. In the attack on Freetown in January 1999, a "significant number of the rebel combatants were children."<sup>2977</sup> In preparation for the attack, they were trained at a mixed AFRC/RUF base called "Camp Rosos" where children between the ages of 8 and

<sup>2970</sup> TF1-334, TT, 21 April 2008, p. 8111 & 22 April 2008, p. 8191.

<sup>2971</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 22-23.

<sup>2972</sup> TF1-015, TT, 8 January 2008, pp. 697-700. See also Exh. P-202 (AFRC Transcript of TF1-206, 28 & 29 June 2005), p. 19666, 19670, 19673-74, 19678, 19679, 19692: more than 6 small boys, one aged 12 to 14, dressed in combat uniform, with jeans and carrying guns were part of the rebels who attacked witness' village, Bomboa Fuidu in Kono District, in April 1998. The rebels wore combat but were not ECOMOG or Kamajors and some also spoke Liberian.

<sup>2973</sup> TF1-174, TT, 27 January 2009, pp. 23673-85: Between February and March 1998, the RUF carried out "Operation Pay Yourself" in Makeni and its surroundings. During this operation they killed, amputated, burned, raped, looted and committed other atrocities against civilians. TF1-174, who knew many of the RUF child soldiers based in Makeni, saw them participate in these crimes, while armed.

<sup>2974</sup> TF1-263, TT, 6 October 2008, p. 17970; TF1-015, TT, 8 January 2008, pp. 722-723. This pattern was repeated in Koinadugu District as part of the same Operation (see TF1-215, TT, 14 October 2008, pp. p. 18262, 18264-65, 18267-68, 18289, 18297-99, 18302-03). After the Intervention in April 1998, when the People's Army were passing through Kondembaia, in Koinadugu District on their way to Kono, they mounted a checkpoint outside TF1-215's house as part of "Operation Pay Yourself." Witness TF1-215 testified that the People's Army included children with weapons aged about 8, 10, 12 and 15. In a separate incident, men including armed children aged 10, 13, 15, claiming to be "the Foday Sankoh rebels" burned down Kondembaia on the orders of "their boss." The "younger boys ... [standing] on the mortar to give them some more height to set the houses on fire."

<sup>2975</sup> TF1-334, TT, 23 April 2008, pp. 8394-95.

<sup>2976</sup> [REDACTED]

<sup>2977</sup> Exh. P-310, para. 25. See also TF1-174, TT, 27 January 2009, pp. 23703-08: the witness worked with RUF child soldiers in Makeni and learned from the children that some of them had participated in the January 1999 invasion. The children also disclosed information such as where they were captured and where they fought, in private interviews. The witness wrote the names of 4 such children on a piece of paper which was admitted as [REDACTED]

12 outnumbered the adults.<sup>2978</sup> Witness TF1-143, then 12 years old, was part of the “advance team” which headed to Freetown in January 1999.<sup>2979</sup>

1058. Most adult fighters who participated in the January 1999 attack on Freetown, including many Liberian fighters, had SBUs attached to them.<sup>2980</sup> Horrific atrocities were committed by children in connection with the Invasion, and the subsequent retreat. Human Rights Watch reported that “RUF child combatants, armed with pistols, rifles, and machetes, were witnessed actively participating in killings and amputations.”<sup>2981</sup> Indeed, during the advance, Witness TF1-143 was forced to hack to death two children, a man and a woman with a machete.<sup>2982</sup> Upon arriving in Freetown, the witness formed part of the group under AFRC commander “Adama Cut Hand” and was actively involved in several amputations.<sup>2983</sup> As the rebels retreated from Freetown, they burned property and executed civilians. The SBUs did anything they saw their commanders do.<sup>2984</sup> Civilian witnesses present in Freetown testified to the presence of child soldiers.<sup>2985</sup>

1059. After the Invasion, in August 1999, SBUs were involved in an operation in Liberia carried out by the RUF which involved fighting against rebel forces under the LURD commander “Mosquito Spray.”<sup>2986</sup>

<sup>2978</sup> TF1-334, TT, 21 April 2008, pp. 8103, 8159-62. See also TF1-158, TT, 21 October 2008, pp. 18821-27: witness trained at Rosos in 1998 when he was 10 with other children from the age of 8.

<sup>2979</sup> TF1-143, TT, 5 May 2008, p. 8987-9.

<sup>2980</sup> TF1-334, TTs, 21 April 2008, pp. 8177-78, 8181 & 22 April 2008, pp. 8290-91: SBUs in TF1-334’s group were always with the fighters carrying ammunition, machetes, AK guns, or other small weapons. The SBUs killed civilians whenever they were ordered to by the rebels. See also TF1-278, TT, 30 January 2009, pp. 23978, 23999, 24004, 24044: the witness lived on Falcon Street in Kissy, Freetown. Around 8 January 1999, a group of RUF rebels forcefully occupied his hut. Some of the rebels had a Liberian accent and the group included a small boy called Kelle. Kelle had been with the rebels since they abducted him over eight years previously. The witness noted that he never knew Kelle’s age, but he was a small boy. See further TF1-143, TT, 5 May 2008, pp. 9019, 9054.

<sup>2981</sup> Exh. P-328, p. 23003.

<sup>2982</sup> TF1-143, TT, 5 May 2008, pp. 8999-9000: rebel “boss” Kabila told the witness that if he refused to kill them he would be killed.

<sup>2983</sup> TF1-143, TT, 5 May 2008, pp. 9026-29, 9032-33, 9035-36: the witness pointed a weapon at two men while Adama amputated both their hands. The witness also amputated the hands of two men who refused to open a shop door for him at Kissy market. According to TF1-334, Adama Cut Hand was with the AFRC (see TF1-334, TT, 23 April 2008, pp. 8336, 8350).

<sup>2984</sup> TF1-334, TT, 23 April 2008, p. 8375.

<sup>2985</sup>

[REDACTED] See also TF1-085, TT, 27 October 2008, pp. 19241-2; Exh. P-205A (AFRC Transcripts of TF1-023, 9-10 March 2005 & 7 November 2005), p. 19325; TF1-233, TT, 1 October 2008, pp. 17707-8; Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), p. 19421.  
<sup>2986</sup> TF1-276, TT, 23 January 2008, pp. 2045-7, 2058. The operation’s overall commander was Sam Bockarie who was instructed to carry out the operation by the Accused’s direct subordinate, Benjamin Yeaten.

1060. While some child soldiers were taken to fight at the front-lines after military training, others remained on the base to provide support or labour to commanders which helped maintain operations in the conflict, including acting as bodyguards as well as domestic servants.<sup>2987</sup> Children also went on “food finding missions,” attacking villages and bringing back looted food and other property, especially for the commanders.<sup>2988</sup> Some children were used as guards at checkpoints.<sup>2989</sup>

1061. Child soldiers also guarded civilians who were forced to mine diamonds for the rebels. These duties were performed by child soldiers at *inter alia*: Tongo Fields and Cyborg Pit in Kemena District during the Junta period;<sup>2990</sup> [REDACTED];<sup>2991</sup> and Tombodu, Kono District, in early 2000.<sup>2992</sup> Witnesses testified that miners at these locations were guarded at gunpoint by child soldiers under the age of 15.<sup>2993</sup> These guards shot and killed civilians suspected of stealing diamonds or carrying out “non-government mining” and beat up or shot those who refused to work.<sup>2994</sup> Miners at Tombodu could not escape the RUF because “there [was] nowhere

<sup>2987</sup> TF1-584, TT, 19 June 2008, pp. 12218-9; TF1-326, TT, 18 January 2008, pp. 1673-4; [REDACTED]; TF1-334, TT, 18 April 2008, p. 8006: girls between the ages of 10 and 20 were captured by rebels in Kono, raped, forced to have sex with SBUs and to provide domestic services to the rebels; TF1-114, TT, 15 January 2008, pp. 1234-5: after the intervention, children in Masiaka who had been abducted by rebels were forced to assist the rebels’ wives with their domestic chores. Also see TF1-314, TT, 20 October 2008, p. 18678: the witness remained in Buedu until 1998 providing domestic services for her boss’ wife.

<sup>2988</sup> [REDACTED]; TF1-174, TT, 28 January 2009, pp. 23827-9; TF1-334, TT, 23 April 2008, pp. 8376, 8391, 8395-6: explaining that when his AFRC group settled for a month in Benguema, after the retreat from Freetown in January 1999, boys between the ages of 8 and 12 performed guarding duties on the base, went on patrols and food finding missions, carried looted goods, and pounded rice for the rebels. See also TF1-314, TT, 20 October 2008, pp. 18678, 18683, 18702, 18680-3: while based at Buedu, Edna Bangura, then aged 11, participated while armed in two “food finding missions.” See further TF1-143, TT, 5 May 2008, pp. 8979-8982: TF1-143 was taken on a “food finding mission” when he was 12 years old in or somewhere near Koinadugu district. Also see TF1-158, TT, 21 October 2008, p. 18825: the witness participated in “food finding missions” while based at Rosos in 1998; [REDACTED]

<sup>2989</sup> TF1-532, TT, 31 March 2008, p. 6205.

<sup>2990</sup> For Tongo Fields see: TF1-060, TT, 29 September 2008, pp. 17536-38; TF1-567, TT, 2 July 2008, pp. 12883-7; [REDACTED]; TF1-375, 23 June 2008, TT, pp. 12498-9. For Cyborg Pit see: Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14910, 14914-5, 14941.

<sup>2991</sup> [REDACTED]; Exh. P-196 (RUF Transcript of TF1-077, 21 July 2004), pp. 18630-1.

<sup>2992</sup> For Tongo Fields and Cyborg Pit see: TF1-060, TT, 29 September 2008, p. 17536 (age 12 to 15); TF1-567, TT, 2 July 2008, p. 12887 (from 14 years upwards); [REDACTED]; and Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14941. TF1-062 testified that during the Junta period armed “children ... around 12 years, 13 years,” who were of a similar age to his son, guarded the mines. For Koidu see: [REDACTED]. For Tombodu see: Exh. P-196 (RUF Transcript of TF1-077, 21 July 2004), p. 18631. TF1-077 testified that the guns were held by about 20 “little boys,” aged 6, 10 and 15, who “when they walked their guns dragged on the ground.”

<sup>2993</sup> TF1-060, TT, 29 September 2008, pp. 17536-37; TF1-567, TT, 2 July 2008, pp. 12883-7; Exh. P-196 (RUF Transcript of TF1-077, 21 July 2004), pp. 18632-3.



to run” as there were checkpoints “and these little boys were on each of these checkpoints.”<sup>2995</sup>

1062. One rehabilitation program for children involved in the war was reflective of the use of child soldiers during the conflict. It included some 3,000 children, about 1,800 of whom had been child soldiers, most of them with the RUF.<sup>2996</sup> Many of the children in the program were on drugs.<sup>2997</sup> The children expressed their feelings and experiences through their drawings. These drawings depicted attacks on villages, soldiers identified as “Sam Bockarie” and “Rambo,” scenes from training camps and all included guns. These drawings were published in a book and evidence the horrific scenes these children bore witness to and, in some cases, even perpetrated.<sup>2998</sup> Further evidence of the lasting effect these experiences had on these vulnerable individuals is demonstrated in the account given by Witness TF1-326 of Foday Sankoh’s visit to the program in May 2000. On seeing Sankoh, the children reacted by saluting him and singing the RUF anthem.<sup>2999</sup>

## IX.H. COUNT 10: ENSLAVEMENT (ABDUCTIONS & FORCED LABOUR)

### COUNT 10: APPLICABLE LAW

1063. In the RUF Judgement Trial Chamber I held that in addition to the contextual elements of crimes against humanity, the elements of the crime of enslavement are as follows:

- (i) the perpetrator exercised any or all of the powers attaching to the right of ownership over a person, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty; and
- (ii) the perpetrator intended to exercise the act of enslavement or acted in the reasonable knowledge that this was likely to occur.<sup>3000</sup>

<sup>2995</sup> Exh. P-196 (RUF Transcript of TF1-077, 21 July 2004), pp. 18633-4.

<sup>2996</sup> TF1-326, TT, 18 January 2008, pp. 1653-9, 1665-6, 1671-2; Exh. P-39; Exh. P-40. TF1-326 headed a program supported by UNICEF for the rehabilitation of children involved in the war, which ran from April 1999 to March 2002. The witness knew most of the children had been with the RUF either because the children told him or because many had the initials ‘RUF’ carved on their chests and arms.

<sup>2997</sup> TF1-326, TT, 21 January 2008, p. 1703.

<sup>2998</sup> TF1-326, TT, 21 January 2008, pp. 1684-5, 1688-96; Exh. P-41.

<sup>2999</sup> TF1-326, TT, 21 January 2008, pp. 1700-3 and Exh. P-42 which contains a photograph of the visit. In the book, the date of the visit is given as March 2000 but the witness testified that this was an error of the journalist.

<sup>3000</sup> RUF Trial Judgement, para. 197. This formulation mirrors the general *mens rea* standard adopted in the ICC Statute (Article 30(2)) which is applicable to the crime of enslavement. Notably, in the AFRC Trial

1064. In relation to the elements of enslavement the sources of law in the following footnote are relied upon by the Prosecution.<sup>3001</sup> In relation to the *mens rea* for the offence it is submitted that it must be established that the perpetrator either intended enslavement or acted in the reasonable knowledge that it was likely to occur, and that the Trial Chamber should adopt a phraseology that makes this explicit. This approach is consistent with the *mens rea* requirement of other crimes in the Statute, the approach of Trial Chamber I, and the ICC Statute.<sup>3002</sup>

### Forced Labour

1065. In *Krnojelac*, the allegations concerned enslavement for the purpose of forced labour.<sup>3003</sup> It was held by the Trial Chamber in that case that to establish the allegation of forced labour constituting enslavement, the Prosecutor must demonstrate that:

- (i) “the Accused (or persons for whose actions he is criminally responsible) forced the detainees to work;
- (ii) that he (or they) exercised any or all of the powers attaching to the right of ownership over them;
- (iii) and that he (or they) exercised those powers intentionally.”<sup>3004</sup>

1066. The Trial Chamber in *Krnojelac* directed itself that international humanitarian law does not prohibit all labour by protected persons in armed conflicts, and that “generally the prohibition is against forced or involuntary labour.” The Trial Chamber stated that: “in essence, the determination of whether protected persons laboured voluntarily is a factual question which has to be considered in light of all the relevant circumstances on a case by case basis.” The Trial Chamber explained that all the relevant circumstances included those same circumstances that are indicative of a lack of consent in the context

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Judgement, para. 747 Trial Chamber II formulated the elements of the offence to require the “intentional exercised of such powers,” relying on the *Kunarac* Trial Judgement. However, for the reasons stated in the following paragraph it’s submitted that the formulation above is preferable.

<sup>3001</sup> *Kunarac* Trial Judgement, para. 540.; *Krnojelac*, Trial Judgement, para 350. RUF Appeal Judgement, para. 1082, referring to *Kunarac* Appeal Judgement, para. 119; RUF Appeal Judgement, para. 1082, endorsing Trial Chamber I’s reference to this passage from the *Pohl* case in the *Kunarac et al* Appeal Judgement.

<sup>3002</sup> This argument is made in relation to Mutilation above and the same analysis applies.

<sup>3003</sup> *Krnojelac* Trial Judgement, para. 357.

<sup>3004</sup> *Krnojelac* Trial Judgement, para. 358. The prosecution in this case had alleged that enslavement of detainees occurred primarily in relation to forced labour; however, the prosecution further submitted that under the formulation accepted by the Trial Chamber in *Kunarac*, other factors could be taken into consideration in finding the accused guilty of the crime (para. 357). The Trial Chamber took the view that the prosecutions pleadings identified the basis of the charge of enslavement as forced labour, and on that basis set out those allegations that the prosecution must establish when enslavement is charged primarily in relation to forced labour (para. 358). Notably (ii) is the *actus reus* of enslavement and therefore all the various indicia of the *actus reus* are relevant in determining the charge.

of enslavement, namely: “consent is often rendered impossible or irrelevant by, for example, the threat or use of force or other forms of coercion; the fear of violence, deception or false promises; the abuse of power; the victim’s position of vulnerability; detention or captivity, psychological oppression or socio-economic conditions.”<sup>3005</sup> The Trial Chamber emphasised that “what must be established is that the relevant persons had no real choice as to whether they worked or not.”<sup>3006</sup> The Appeals Chamber of the ICTY in *Krnjelac* implicitly accepted the legal standard articulated by the Trial Chamber in that case.<sup>3007</sup> However, it is of note that the Appeals Chamber reversed the factual findings of the Trial Chamber in its application of that test finding that the specific conditions of detention in that case were such that a reasonable trier of fact should have arrived at the conclusion that the detainees’ general situation negated any possibility of free consent.<sup>3008</sup> The Appeals Chamber stated that the victim’s opinion as to whether s/he was forced to work was not sufficient to establish forced labour but that the victim’s personal conviction that they were forced to work must be proven with objective, not subjective, evidence.<sup>3009</sup>

1067. The Trial Chambers of the SCSL have previously found the following types of labour to constitute enslavement: the abduction of civilians and their use as forced labour in mining operations, farming operations, for military training, for hunting and fishing, for domestic labour and chores, as porters to carry looted items and captives to perform domestic chores and for use as human shields.<sup>3010</sup>

<sup>3005</sup> *Krnjelac*, para. 359.

<sup>3006</sup> *Krnjelac*, Trial Judgement, para. 359.

<sup>3007</sup> *Krnjelac*, Appeal Judgement, paras. 189 – 203.

<sup>3008</sup> *Krnjelac* Appeal Judgement, para 194, in which the Appeals Chamber stated as follows: “The Appeals Chamber holds that, given the specific detention conditions of non-Serb detainees at KP Dom, a reasonable trier of fact should have arrived at the conclusion that the detainees general situation negated any possibility of free consent. The Appeals Chamber is satisfied that the detainees worked to avoid being beaten or in the hope of obtaining additional food. Those who worked did so out of fear on account of the disappearances of detainees who had gone outside of the KP Dom. The climate of fear made the expression of free consent impossible and it may neither be expected of a detainee that he voice an objection nor held that a person in a position of authority need threaten him with punishment if he refuses to work in order for forced labour to be established. In such circumstances the fact that a detainee raised an objection is immaterial in ascertaining whether it was truly impossible to object.” See also para. 195.

<sup>3009</sup> *Krnjelac* Appeal Judgement, para. 195, the Appeals Chamber patently concluded that there was sufficient objective evidence to prove that the detainees were forced to work, thus bearing out their convictions that the labour they performed was forced.

<sup>3010</sup> RUF Trial Judgement, paras. 1414 – 1443, 1478 and 1479 -1489, 1591; AFRC Trial Judgement, paras. 1287-1394.

## COUNT 10: EVIDENCE

**When the war came we were enslaved. Whatever they would tell us to do, that was what we would do. That was why we were doing the farming. We were in slavery. He was controlling us. ... If you did not do it you would be beaten and that would be your pay.**

*- Aruna Gbonda, Testimony of 19 February 2008, pp. 4252-53*

1068. The evidence proves the Accused's guilt of Count 10, Enslavement, a Crime Against Humanity. The testimony of victims, insiders, and experts and reports from the UN and human rights organisations proves beyond reasonable doubt that the RUF and its allies enslaved the civilian population in various locations in Sierra Leone as charged in Count 10.<sup>3011</sup>

General

1069. The evidence establishes that an organised process of enslavement was used by the RUF and its allies throughout the decade long conflict in Sierra Leone. Count 10 charges that enslavement was committed from 30 November 1996 through 18 January 2002 in Kenema District, Kono District, Kailahun District, Freetown and the Western Area. The evidence shows that the charged crimes were part of a pattern of offensives that included enslavement committed prior to 30 November 1996<sup>3012</sup> throughout rebel-held areas, including: Bonthe,<sup>3013</sup> Pujehun,<sup>3014</sup> [REDACTED]<sup>3015</sup> Kambia,<sup>3016</sup> [REDACTED]<sup>3017</sup> Bombali,<sup>3018</sup> Port Loko,<sup>3019</sup> Bo,<sup>3020</sup> and Koinadugu<sup>3021</sup> districts.

<sup>3011</sup> Indictment, paras. 23-27; Amended Case Summary, para. 28; Pre-Trial Brief, paras. 78, 84, 85, 86, 89, 97, 104, 114.

<sup>3012</sup> For Kono District see: TF1-577, TT, 5 June 2008, p. 11144; TF1-263, TT, 6 October 2008, pp. 18020-21, 17885-90, 17894, 17899-900, 17903-04, 17908-12, 17994-98. For Kailahun District see: TF1-577, TTs, 3 June 2008, pp. 10869-72, 4 June 2008, pp. 10896, 10933, 5 June 2008, p. 11144; TF1-567, TTs, 2 July 2008, pp. 12818-26, 12865-66, 8 July 2008, pp. 13224-36; TF1-590, TTs, 17 June 2008, pp. 12048-55, 12061, 18 June 2008, pp. 12105-06; [REDACTED]; TF1-516, TT, 8 April 2008, pp. 6821-27; TF1-597, TT, 21 May 2008, pp. 10419-20; TF1-314, TT, 20 October 2008, pp. 18680-83, 16687; DCT-172, TT, 17 August 2010, pp. 46448-49, 46453; DCT-062, TT, 22 April 2010, p. 39684; DCT-146, TTs, 22 March 2010, pp. 37748-51, 23 March 2010, pp. 37871-73. For Kenema District see: [REDACTED]; TF1-571, TT, 8 May 2008, pp. 9314-17, 9320-21.

<sup>3013</sup> [REDACTED]; TF1-274, TT, 1 December 2008, pp. 21294-04.

<sup>3014</sup> [REDACTED]; TF1-571, TT, 8 May 2008, pp. 9314-9317, 9320-9321; TF1-045, TT, 12 November 2008, pp. 20055-73, 20085; TF1-567, 2 July 2008, pp. 12866; [REDACTED]

<sup>3015</sup> [REDACTED]

<sup>3016</sup> DCT-146, TT, 23 March 2010, pp. 37822-23.

<sup>3017</sup> [REDACTED]

<sup>3018</sup> TF1-334, TTs, 17 April 2008, p. 7928, 7936-38, 21 April 2008, pp. 8100, 8102-03; [REDACTED]

1070. As observed by the expert witness, Dr. Ellis, enslavement was a prevalent tactic among NPFL forces in Liberia<sup>3022</sup> and this tactic was brought from Liberia to Sierra Leone. Early in the Sierra Leonean conflict, NPFL and RUF fighters forced captured civilians to perform labour or conscripted them to their fighting forces.<sup>3023</sup> Issa Sesay confirmed that during these early years Taylor's NPFL captured civilians in Kailahun District, forced them to train as fighters, and also used them to carry looted goods back to Liberia.<sup>3024</sup> The evidence shows that the RUF followed suit, going on "hit-and-run raids, returning to their base camps with looted goods and abducted civilians."<sup>3025</sup>

### Organisation of Enslavement

1071. The enslavement of civilians for the purpose of forced labour in Sierra Leone by the RUF and its allies was not random or an *ad hoc* by-product of war. Rather, a considerable level of organisation attended the perpetration of this crime as the Indictment Perpetrators deliberately and systematically captured and enslaved thousands of civilian men, women and children<sup>3026</sup> throughout the conflict.<sup>3027</sup>

1072. When the RUF and its allies took control of an area, they terrorized the population and forced civilians to perform a variety of labour including: carrying arms, ammunition and/or goods; performing domestic work; going on food-finding missions; farming; and mining for diamonds.<sup>3028</sup> Captives were used as human shields.<sup>3029</sup> Civilian men and women and especially children, including those under 15 years of age, were forcibly

<sup>3019</sup> TF1-334, TTs, 17 April 2008, p. 7928, 7936-38, 24 April 2008, pp. 8465-66; [REDACTED]

<sup>3020</sup> Exh. P-15.

<sup>3021</sup> TF1-360, TT, 5 February 2008, pp. 3086-88; DCT-172, TT, 25 August 2010, pp. 47176-77; Exh. P-307/D-175, para. 36.

<sup>3022</sup> Exh. P-31, p. 00026618-19: "cruel, inhuman or degrading practices perpetrated by the RUF ... have more obvious precedents in Liberia" in particular the use of child soldiers, rape, forced labour; [REDACTED]

[REDACTED]; TF1-367, TT, 20 August 2008, pp. 14079-80.

<sup>3023</sup> TF1-337, TT, 4 March 2008, pp. 5212-13; DCT-062, TT, 22 April 2010, p. 39684; [REDACTED]

<sup>3024</sup> DCT-172, TT, 17 August 2010, pp. 46448-49, 46453.

<sup>3025</sup> Exh. P-330, p. 23157.

<sup>3026</sup> P-78, p. 15, paras. 1-4; Exh. P-81, p. 3, para. 3; Exh. P-306/D-169, para. 22; Exh. P-330, pp. 23157-60.

<sup>3027</sup> TF1-314, TT, 20 October 2008, pp. 18665-68, 18671-88; TF1-314 was held from 1994 till disarmament. See also TF1-189, TTs, 17 September 2008, pp. 16510-13 & 18 September 2008, pp. 16541-44; TF1-189 was abducted in March 1998, held until August 1999. Also TF1-045, TTs, 14 November 2008, pp. 20266-69 & 17 November 2008, p. 20417; TF1-045 raped a 22 year old woman who was abducted in 1995 and held until 2000.

<sup>3028</sup> Exh. P-78, p. 15, paras. 1-4; Exh. P-334, p. 23342; Exh. P-365, p. 00020948, para. 2; Exh. P-366, p. 00025072, para. 6; DCT-299, TT, 24 June 2010, pp. 43334-6, 43352, 43407-08.

<sup>3029</sup> Exh. P-366, p. 00025072, para. 6.

conscripted into the rebel fighting forces.<sup>3030</sup> Captured civilians were forced to travel with the rebels.<sup>3031</sup> For example, the civilians captured by the AFRC/RUF as the Junta fled Freetown in February 1998 were taken to Kailahun District. Once in Kailahun, these captives were enslaved and forced to perform a variety of duties for their captors, including the building of an airfield close to Buedu.<sup>3032</sup>

1073. Captive civilians were subjected to forced labour under threat of physical violence or death, often at gunpoint.<sup>3033</sup> Those who refused to work or tried to escape were routinely killed or brutally beaten.<sup>3034</sup> The conditions of life for enslaved civilians were often extremely difficult; victims were generally deprived of adequate food and sometimes stripped and made to work naked.<sup>3035</sup> Moreover, some captives literally had the stamp of rebel ownership – the letters “RUF” and/or “AFRC” – carved onto their skin.<sup>3036</sup> As one captor in Kono proclaimed, “... we are coming to carve AFRC on their bodies. They are going to stay in (sic) this way, they are going to stay with us and they are going to work for us.”<sup>3037</sup>

#### Specific role of G5 Unit and commanders

1074. The rebel G5 commander was in charge of enslaved civilians and arranged for “manpower” to be sent and used as forced labour wherever needed by the Indictment Perpetrators, often using a civilian chairman as an intermediary.<sup>3038</sup> These intermediaries also often worked in fear for their lives.<sup>3039</sup> DCT-068 was a G5 officer whose role was to coordinate civilians in Kailahun from 1992 to 1998. According to this witness’ evidence, in RUF controlled areas an RUF commander with a farm would

<sup>3030</sup> Exh. P-78, p. 15, para. 4; Exh. P-324, p. 21765, para. 6; Exh. P-330, pp. 23157 & 23160; Exh. P-335, p. 23400.

<sup>3031</sup> TF1-045, TT, 13 November 2008, pp. 20171-74, p. 20167.

<sup>3032</sup> TF1-114, TT, 15 January 2008, pp. 1231-32, 1234-36, 1243-46, 1256-57, 1261-68, 1271.

<sup>3033</sup> TF1-263, TT, 6 October 2008, pp. 17929-17931; TF1-026, TT, 14 February 2008, pp. 3843-68; TF1-114, TT, 15 January 2008, pp. 1268-69; Exh. P-215 (AFRC Transcript of TF1-227, 8, 11, and 12 April 2005), pp. 20817-20, 20822, 20830-31, 20834-38, 20867-69; TF1-227, TT, 27 October 2008, pp. 19302-19303.

<sup>3034</sup> Exh. P-328, p. 3, para. 6 to p. 4, para. 1; TF1-085, TT, 27 October 2008, pp. 19172-82; TF1-516, TT, 10 April 2008, pp. 7115-28, 7146-59.

<sup>3035</sup> Exh. P-196 (RUF Transcript of TF1-077, 20 July 2004), p. 18629-35; TF1-077, TT, 14 October 2008, pp. 18236-37; TF1-360, TT, 5 February 2008, pp. 3144-46; TF1-114, TT, 15 January 2008, pp. 1258-69.

<sup>3036</sup> Exh. P-330, pp. 23158-59; TF1-015, TT, 8 January 2008, p. 707: marking at Wonedu, Kono District; TF1-360, TT, 5 February 2008, pp. 3144-46;

<sup>3037</sup> Exh. P-190 (RUF Transcript of TF1-074, 12 July 2004), pp. 18487-88.

<sup>3038</sup> TF1-330, TT, 19 February 2008, pp. 4239-42; TF1-360, TT, 5 February 2008, pp. 3119-20; TF1-532, TT, 31 March 2008, p. 6203; DCT-299, TT, 17 June 2010, p. 42772; DCT-102, TT, 9 November 2010, pp. 49077-80.

<sup>3039</sup> TF1-330, TT, 19 February 2008, pp. 4242-44, 4281-82.

ask the G5 officer to assemble civilians to do the farming.<sup>3040</sup> DCT-068 testified that civilians would be taken by the RUF to harvest food under the constant watch of a security guard.<sup>3041</sup>

### Organisation of Mining Operations

#### *Organisation of Mining Operations in Kenema District*

1075. Once control was taken of Kenema District shortly after the May 1997 coup, the AFRC/RUF established a system of organized diamond mining at Tongo Fields.<sup>3042</sup> A civilian committee comprised of senior Tongo residents was responsible for providing manpower, directing the AFRC/RUF to where diamonds were located, and helping to evaluate the diamonds.<sup>3043</sup> This committee was forced to provide up to five or six hundred civilians manpower in a day.<sup>3044</sup> Captive civilians mined without pay to sustain these operations, under threat of violence or death, and under the guard of SBUs.<sup>3045</sup>

1076. In November 1997, the mining procedures in Tongo changed. Instead of using a civilian committee, the AFRC/RUF soldiers rounded up manpower themselves.<sup>3046</sup> Conditions for civilians under this new system worsened. At daybreak, AFRC Captain Jalloh and his senior officers would divide the AFRC/RUF soldiers into groups of 20 or 30, tell them how many civilians they must provide, and send them to the different Tongo sections to get manpower. After capturing civilians, armed AFRC/RUF soldiers removed their shirts and shoes, tied the civilians' shirts together, and marched them naked to the secretariat.<sup>3047</sup> After allocating civilians to the government sites, those remaining were divided between the commanders for private mining. Between 600 and 700 civilians were gathered and distributed each day.<sup>3048</sup>

<sup>3040</sup> DCT-068, TT, 11 March 2010, p. 37123.

<sup>3041</sup> DCT-068, TT, 11 March 2010, pp. 37085-86.

<sup>3042</sup> TF1-334, TT, 17 April 2008, pp. 7913-7915; TF1-367, TT, 20 August 2008, p. 14126.

<sup>3043</sup> TF1-045, TT, 12 November 2008, p. 20142.

<sup>3044</sup> TF1-045, TT, 12 November 2008, p. 20155.

<sup>3045</sup> [REDACTED] See also TF1-337, TT, 5 March 2008, pp. 5343-46; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14939-40. The Defence evidence also supports this assertion: see DCT-146, TT, 23 March 2010, pp. 37871-73.

<sup>3046</sup> TF1-045, TT, 12 November 2008, pp. 20153-56.

<sup>3047</sup> TF1-045, TT, 12 November 2008, pp. 20153-56; TF1-274, TT, 2 December 2008, p. 21421-23: he saw this himself. See also TF1-060, TT, 29 September 2008, pp. 17532-35: the witness saw captured civilians marched through the town from the veranda of his office.

<sup>3048</sup> TF1-045, TT, 12 November 2008, pp. 20153-56.

*Organisation of Mining Operations in Kono District*

1077. Mining in Kono District was performed under the control of dedicated mining commanders. This organised system of mining was implemented to ensure that the Indictment Perpetrators maintained control of these areas, extracted the diamonds in the most efficient manner and could obtain whatever resources such as arms, ammunition and other necessary logistics were required without delay. Forced labour was vital to this effort.

Kenema District

*Overview*

1078. The AFRC/RUF used civilians living in Kenema District<sup>3049</sup> as forced labour in various locations such as the Tongo Fields area between 1 July 1997 and 28 February 1998.<sup>3050</sup> Throughout the conflict in Sierra Leone, the RUF and its allies sought to control the Tongo diamond mining areas in Kenema District. About mid-1997, AFRC/RUF forces took control of Tongo Town and began mining operations at various sites, including Cyborg Pit.<sup>3051</sup>

*Mining operations*

1079. Under Sam Bockarie's leadership, civilians were forced to mine in the so-called 'government pits' exclusively for the benefits of the RUF.<sup>3052</sup> The 'two-pile system' was supposedly established by the AFRC/RUF in Tongo Fields and other locations throughout Sierra Leone after Issa Sesay took over the leadership of the AFRC/RUF alliance.<sup>3053</sup> The 'two-pile system' meant dividing gravel mined by captive civilians into two piles: one for the AFRC/RUF alliance and one for the civilians who mined. However, in reality, diamonds in the civilian pile were always taken by the AFRC/RUF

<sup>3049</sup> For a map of Kenema District and the various locations of forced labour, including Tongo Fields, see Exh. P-176 (Map of Kenema District).

<sup>3050</sup> Indictment, para. 24.

<sup>3051</sup>

[REDACTED]; TF1-338, TT, 3 September 2008, pp. 15313: The witness testified that the RUF controlled the Tongo and Kono diamonds fields from the end of 1998 to 2002; TF1-045, TT, 12 November 2008, pp. 20144-46, 20155; TF1-060, TT, 29 September 2008, p. 17542; TF1-274, TT, 1 December 2008, pp. 21407, 21423-27.

<sup>3052</sup> TF1-516, TT, 10 April 2008, pp. 7177.

<sup>3053</sup> TF1-334, TT, 17 April 2008, pp. 7913-15; TF1-304, TT, 15 October 2008, pp. 18402-04.



soldiers.<sup>3054</sup> Civilians who refused to give the diamonds to the AFRC/RUF alliance were beaten or killed.<sup>3055</sup>

1080. Under the AFRC/RUF, civilians were forced to mine both for the AFRC/RUF and for individual commanders and fighters, such as TF1-045 and 55 aka Santigie Kanu. Despite dividing mining days into government and non-government days, in fact all diamonds went to the AFRC/RUF. On non-government mining days, civilians were forced to mine for the AFRC/RUF commanders.

### *Tongo Fields*

1081. The diamond-rich Tongo Fields are in Lower Bambara Chiefdom in Kenema District, 27 miles away from Kenema Town.<sup>3056</sup> Tongo Fields was primarily controlled by the AFRC/RUF alliance after Sam Bockarie ordered and led the attack on Tongo town around July or August 1997.<sup>3057</sup> Once control was taken, the AFRC/RUF established a system of organized diamond mining.<sup>3058</sup> Three days after capturing Tongo, Sam Bockarie summoned civilians to inform them of the AFRC coup and of the AFRC and RUF alliance.<sup>3059</sup> Bockarie told civilians “When elephants fight, it’s the grass that suffers,” and so civilians were to bear the pain.<sup>3060</sup> Bockarie called himself the vice-chairman and made it clear to the civilians they were under his control.<sup>3061</sup> He appointed a secretariat to which civilians could lodge complaints, although this did not result in any improvements in the living conditions of the enslaved civilians.<sup>3062</sup> The AFRC/RUF used civilian chairmen and the mining commanders to organize and manage captive civilians.<sup>3063</sup>

<sup>3054</sup> TF1-337, TT, 5 March 2008, pp. 5347-50; TF1-516, TT, 10 April 2008, pp. 7175-78; TF1-532, TT, 31 March 2008, pp. 6202-6204; TF1-568, TT, 15 September 2008, pp. 16180-84.

<sup>3055</sup> TF1-337, TT, 5 March 2008, pp. 5347-50.

<sup>3056</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14910.

<sup>3057</sup> TF1-567, TT, 2 July 2008, pp. 12884- 12885; TF1-060, TT, 29 September 2008, p. 17542; TF1-274, TT, 1 December 2008, p. 21407; TF1-274 arrived in Kenema in mid-1997 and worked there as a radio operator for the RUF; Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15055-56; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14914-15; TF1-062 testified that the AFRC/RUF arrived there in August 1997. See also [REDACTED]; TF1-045, TT, 12 November 2008, pp. 20140-20142 & pp. 20153-20156.

<sup>3058</sup> TF1-334, TT, 17 April 2008, pp. 7913-7915; TF1-367, TT, 20 August 2008, p. 14126.

<sup>3059</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14921-23.

<sup>3060</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14921-22.

<sup>3061</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14922.

<sup>3062</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14923.

<sup>3063</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14939-40.

1082. Under the control of AFRC/RUF mining commanders, 600 to 1,000 abducted and local civilians<sup>3064</sup> were forced to mine daily without pay while SBUs as young as 10 years-old guarded them, armed with AK 47s, RPGs, LMGs, and G3s.<sup>3065</sup> Senior commanders supervised the SBUs guarding the forced labourers.<sup>3066</sup> Sam Bockarie and Eddie Kanneh appointed Mohamed Kanneh and Junior Sheriff as mining commanders who took diamonds from miners and gave them to Bockarie and Kanneh.<sup>3067</sup>

1083. Captive miners were neither paid, nor fed properly.<sup>3068</sup> If a soldier or rebel suspected that a miner had stolen a diamond and refused to hand it over, the miner would be flogged or killed.<sup>3069</sup> Similarly, in part to prevent further refusals, civilians were publicly beaten if they refused to mine,<sup>3070</sup> flogged for failure to follow instructions, and shot if they tried to escape.<sup>3071</sup> The AFRC/RUF soldiers shot their weapons in the mining pits to terrorize the miners who then watched as corpses and injured civilians

<sup>3064</sup> TF1-045, TT, 12 November 2008, p. 20144-20146, Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14934; Exh. D-60 (SCSL, Office of the Prosecutor, Interview Notes of TF1-122, 25 November 2004), p. 4, para. 22.

<sup>3065</sup> [REDACTED] TF1-567, TT, 2 July 2008, pp. 12885-87; TF1-060, TT, 29 September 2008, pp. 17535-38; TF1-045, TT, 12 November 2008, pp. 20143-46; Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15055-56; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14941; TF1-334, TT, 17 April 2008, pp. 7913-7915; TF1-367, TT, 20 August 2008, p. 14126; DCT-102, TT, 3 November 2010, p. 48642; DCT-102 was an armed guard in Tongo Fields in 1997 who guarded enslaved miners in order to prevent their escape.

<sup>3066</sup> TF1-045, TT, 12 November 2008, 20144-46. See also TF1-274, TT, 8 December 2008, p. 21939; TF1-045, TT, 12 November 2008, pp. 20140-42; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14927-28. See also TF1-567, TT, 2 July 2008, pp. 12887 – 89: The mining commander Mohamed Kanneh kept records of diamond mining.

<sup>3067</sup> TF1-567, TT, 2 July 2008, pp. 12884-85; TF1-567 was in Tongo until the Junta was dislodged; TF1-590, TT, 16 June 2008, p. 11915-16: The witness saw Mosquito in Kenema between May 1997 and February 1998; TF1-274, TT, 2 December 2008, p. 21419-21423: Sam Bockarie was based in Kenema for several months starting in the rainy season in 1997. TF1-274 saw Sam Bockarie in Tongo about three times. See also [REDACTED]

[REDACTED] TF1-274, TT, 2 December 2008, pp. 21423-21427: Diamonds mined were handed over to Mopleh and then to the SLA commander in charge of Tongo.

<sup>3068</sup> TF1-060, TT, 29 September 2008, pp. 17542-17543; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14938-14939.

<sup>3069</sup> TF1-567, TT, 2 July 2008, pp. 12885-87; TF1-045, TT, 12 November 2008, pp. 20143-44; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14934-40.

<sup>3070</sup> TF1-567, TT, 2 July 2008, pp. 12885-87; TF1-045, TT, 12 November 2008, pp. 20143-44; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14934: a civilian who refused to work was beaten.

<sup>3071</sup> TF1-045, TT, 12 November 2008, pp. 20143-44 and pp. 20153-20156. Defence evidence confirms that civilians mining for the RUF were guarded by armed men and that civilian miners were shot in the mining pits in Tongo Fields: See DCT-068, TT, 11 March 2010, p. 37142-44. DCT-068, who was in Tongo in 1998 while it was under the control of the AFRC/RUF Junta, testified that the reason the armed men guarded the civilians was to protect civilians from attacks by government forces. The explanation provided by this Defence witness is contradictory to the wealth of evidence which demonstrates that the armed guard were there to prevent the enslaved civilians from escaping or taking diamonds. This Defence witness also confirmed that the RUF declared no-go areas in Tongo and civilians who would venture there at night to wash gravel would be halted, arrested or shot by the RUF rebels.

oozing blood were taken out of the pits. Every day between one and three corpses were taken out of the mining pits.<sup>3072</sup> These events paralyzed the enslaved civilians with fear and demonstrate that the AFRC/RUF alliance treated the civilian forced labour as a commodity.

### *Cyborg Pit*

1084. Cyborg, named by the AFRC/RUF soldiers and approximately 400 yards from Tongo, was the most popular mining location due to its size and potential (Cyborg was about 100 yards long by 50 yards wide with surface mining by at least 300 civilians under the control of Sam Bockarie and his soldiers).<sup>3073</sup> After the arrival of the AFRC/RUF in Tongo Fields, mining sites owned by civilians were now controlled by the AFRC/RUF who kept the diamonds for themselves.<sup>3074</sup> The mining commanders handed over diamonds to Sam Bockarie, who visited Cyborg Pit weekly.<sup>3075</sup> The sand walls of the pit collapsed on numerous occasions and burying alive many of those forced to mine.<sup>3076</sup>

### *Other locations in Kenema District*

1085. In 1997, the AFRC/RUF also conducted mining in Wuima, Bomie, and Sandeyeima in Tongo Fields.<sup>3077</sup> Mining in those locations was undertaken for Sam Bockarie; SBUs killed civilians who attempted to mine for themselves.<sup>3078</sup>

### Kono District

#### *Overview*

1086. Kono District was a major site of enslavement between 1 February 1998 and 18 January 2002.<sup>3079</sup> The Indictment Perpetrators abducted hundreds of people throughout the District. Abductions were perpetrated in various locations, including Tombodu or

<sup>3072</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14942-44.

<sup>3073</sup> TF1-060, TT, 29 September 2008, pp. 17532-35; TF1-045, TT, 12 November 2008, p. 20155; TF1-274, TT, 2 December 2008, p. 21423-27; Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), p. 14934: the witness put the number of civilians forced to mine in Cyborg pit at 1,000, and testified that Tongo has 10,000 residents.

<sup>3074</sup> TF1-060, TT, 29 September 2008, pp. 17532-35; TF1-060 testified that "they owned the land, they were now government, everything in the country was for them."

<sup>3075</sup> Exh. P-278 (AFRC Transcript of TF1-062, 27 June 2005), pp. 14934, 14937-40.

<sup>3076</sup> TF1-060, TT, 29 September 2008, pp. 17538-40; DCT-102, TT, 3 November 2010, pp. 48642-43.

<sup>3077</sup> TF1-060, TT, 29 September 2008, pp. 17535-38.

<sup>3078</sup> TF1-060, TT, 29 September 2008, pp. 17535-38: Three civilians were killed in Pandembu about 300 yards from the witness's office with many others injured by bullets; two civilians were killed at Sandeyeima and others were wounded, and three civilians were killed and two wounded at Wuima.

<sup>3079</sup> Indictment, para. 25.

Tumbodu, Koidu, AFRC/RUF camps, and Wonedu.<sup>3080</sup> Following abduction, the majority of captives were then forcibly inducted into fighting forces and/or forced to perform a variety of duties including carrying loads, domestic work, mining, food finding missions, farming and other forced labour.<sup>3081</sup>

1087. Civilians were captured on the orders of AFRC/RUF commanders in Kono.<sup>3082</sup> Such abductions often occurred during brutal attacks.<sup>3083</sup> Many civilians were imprisoned in camps.<sup>3084</sup> The AFRC/RUF utilised enslavement in all controlled areas in Kono.<sup>3085</sup>

1088. The AFRC/RUF forced civilians to mine diamonds in many locations in Kono, including: Ngaiya, Yengema, Tongoma, Bandafay, Small Ngaiya, Tombodu, Kaisambo, Bumpe, Bakundu at Number 11, Lebanon, Small Sefadu, and Kokuima.<sup>3086</sup> The AFRC/RUF controlled diamond mining fields in the district from at least January 1998 through the remainder of the Indictment Period.<sup>3087</sup>

1089. As elsewhere, the AFRC/RUF forcibly abducted civilians in Kono at gun point and coerced them to mine in both government and private pits.<sup>3088</sup> High AFRC/RUF commanders used forced civilian labour at their own “personal” mines, while two to three-hundred other men were enslaved for “government mining.”<sup>3089</sup> Under the

<sup>3080</sup> TF1-216, TT, 28 October 2008, 19336-37; See also Exh. P-189 (AFRC Trial Transcript of TF1-072, 1 July 2005), pp. 18439-45; Exh. P-196 (RUF Trial Transcript of TF1-077, 20 July 2004), p. 18629-18635; Exh. P-78, pp. 13, 15; TF1-201, TT, 31 October 2008, 19695-99; TF1-263, TT, 6 October 2008, pp. 17895-17890, 17894, 17899-17904, 17908-12; 7 October 2008, pp. 18020-21; TF1-360, TT, 5 February 2008, pp. 3114-17; TF1-015, TT, 8 January 2008, pp. 696-704.

<sup>3081</sup> Exh. P-201 (RUF Transcript of TF1-195, 1 February 2005), pp. 19462-72: TF1-195 testified that in February 1998, civilians, including the witness, were captured at Kainoko, Kono and forced to carry loads to Sawoa; See also TF1-459, TT, 25 September 2008, pp. 17219-25, 17231-41, 17261-62, 17285-86, 17316-23; TF1-334, TT, 17 April 2008, pp. 7944; 18 April 2008, pp. 7975-76, 7981; TT, 21 April 2008, p. 8067.

<sup>3082</sup> TF1-334, TT, 18 April 2008, p. 7976.

<sup>3083</sup> TF1-459, TT, 25 September 2008, pp. 17215-16; Exh. P-78, p. 15, para. 3; TF1-360, TT, 5 February 2008, pp. 3115-16; TF1-303, TT, 29 January 2009, pp. 23872-73; TF1-334, TT, 18 April 2008, pp. 7985-87.

<sup>3084</sup> TF1-360, TT, 5 February 2008, pp. 3125-27, 3130-34, and Exh. P-51. TF1-360, TT, 5 February 2008, pp. 3115-17. See also TF1-303, TT, 29 January 2009, pp. 23864-73.

<sup>3085</sup> TF1-584, TT, 18 June 2008, p. 12198: The RUF exercised enslavement elsewhere in the same way it did at PC Ground.

<sup>3086</sup> TF1-337, TT, 5 March 2008, p. 5341. See also TF1-516, TT, 10 April 2008, pp. 7150-52; TF1-367, TT, 28 August 2008, pp. 14915-20.

<sup>3087</sup> TF1-338, TT, 1 September 2008, pp. 15020, 15041-43, [REDACTED] TT, 3 September 2008, pp. 15315-17; See also TF1-275, TT, 21 February 2008, pp. 4523-15.

<sup>3088</sup> TF1-338, TT, 3 September 2008, p. 15315: Tombodu, Number 11, was an example of a government mine. See also TF1-337, TT, 5 March 2008, pp. 5342-46; 5352-53. See also TF1-516, TT, 10 April 2008, pp. 7146-7152: Civilians mined during the Junta under Captain Moriba. See also TF1-367, TT, 1 September 2008, pp. 15053; See also TF1-367, TT, 21 August 2008, pp. 14198-14203: Captive civilians were trucked into Kono by Issa Sesay or Morris Kallon from Makeni or Magburaka for mining. See also TF1-360, TT, 6 February 2008, pp. 3263-66. See also TF1-577, TT, 9 June 2008, p. 11344-45.

<sup>3089</sup> TF1-367, TT, 21 August 2008, pp. 14198-203. TF1-367 was a mining commander in Kono. He named Michael Coomber, Alpha Turay, and the deputy operations commander, Staff Captain Alhaji as others stationed

pretence of the “two pile system” in existence from 2000, captive civilian miners were unpaid and commanders received the diamonds mined.<sup>3090</sup> Large diamonds mined from the commanders’ private mines were handed over to the RUF.<sup>3091</sup>

1090. As in the Kenema District, captive civilian miners worked in fear for their safety and their lives. They mined under armed guards and were beaten, flogged, or killed if they stole diamonds, refused to mine, or tried to escape.<sup>3092</sup>

#### *Tombodu/Tumbodu*

1091. Captive civilians were forced to mine in Tombodu/Tumbodu. Civilian miners were forced to mine for no pay, were given one plantain per day to eat, and had no way to escape.<sup>3093</sup> Officer Med, who reported to Issa Sesay, forced unpaid, captive civilians to mine under gunpoint for two years in Tombodu/Tumbodu. The number of forced miners rose from 150 to 500 over that period, as more young men were abducted and brought to mine at Bendutu, Tombodu.<sup>3094</sup>

1092. In addition to forced mining, civilians were also abducted from various locations and forced to carry loads to Tombodu/Tumbodu.<sup>3095</sup> Ibrahim Fofanah, one such captive

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at government mines. Those of the high command with personal mines included Superman, Issa Sesay, and Morris Kallon; TF1-367, TT, 28 August 2008, pp. 14907-08.

<sup>3090</sup> See also TF1-367, TT, 21 August 2008, pp. 14198-203.

<sup>3091</sup> TF1-360, TT, 6 February 2008, pp. 3263-66.

<sup>3092</sup> TF1-367, TT, 21 August 2008, pp. 14198-203; TT, 28 August 2008, pp. 14915-20; TT, 1 September 2008, pp. 15053; See also TF1-337, TT, 5 March 2008, pp. 5342-46; 5352-53. TF1-337 was a mine commander who sent RUF fighters to forcibly bring civilians to mine. See also TF1-516, TT, 9 April 2008, pp. 7123-28; 10 April 2008, pp. 7150-51; TF1-577, TT, 9 June 2008, p. 11344-45.

<sup>3093</sup> TF1-567, TT, 2 July 2008, pp. 12925-29: CO Lion organized civilians for mining by capturing them from surrounding areas. AFRC/RUF guarded civilians while they mined so that they would not escape or steal the diamonds. See also Exh. P-196 (RUF Transcript of TF1-077, 20 July 2004), p. 18629-18635 and TF1-077, TT, 14 October 2008, pp. 18236-18237: Officer Med, Colonel Gibbo, and Major Tactical came to Tombodu with orders from Issa Sesay to force civilians to mine at Tombodu Bridge. See also TF1-338, TT, 3 September 2008, p. 15315: The witness stated that Tombodu, Number 11, was an example of a government mine, and “some civilians were forced to mine in the government pit, 2000, 2001 and part of 2002.” See also TF1-216, TT, 28 October 2008, 19336-19337. See also TF1-334, TT, 18 April 2008, p. 8028-8030: TF1-334 testified that Superman was one of the commanders who monitored diamond mining areas, including Tombodu. The witness saw Superman with his men and civilians mining at Tombodu. See also TF1-337, TT, 5 March 2008, pp. 5343-46: Forced mining occurred at Tombodu.

<sup>3094</sup> Exh. P-199 A (RUF Transcript of TF1-304, 12 January 2004), pp. 18918 and (RUF Trial Transcript of TF1-304, 13 January 2005), pp. 18929-41.

<sup>3095</sup> Exh. P-189 (AFRC Trial Transcript of TF1-072, 1 July 2005), pp. 18439-45. See also Exh. P-196 (RUF Trial Transcript of TF1-077, 20 July 2004), p. 18629-35: In April 1998, captured civilians from Wordu guarded by armed soldiers carried food, palm oil in jerry cans, and rice looted by the rebels and soldiers to Tombodu/Tumbodu. See also TF1-216, Trial Transcript 28 October 2008, 19336-37: TF1-216 was captured with other civilians in the bush near Paema and forced to carry loads to Staff Alhaji in Tombodu. See also Exh. P-196 (RUF Trial Transcript of TF1-077, 20 July 2004), p. 18629-35: TF1-072 testified in the AFRC trial that he was captured by rebels in March 1998 in Koidu Town and taken to Gbaima and forced to carry loads to Tombodu for Savage. He was with 14 abducted civilians at Tombodu, was tied up at times, and was threatened with death if he tried to escape. See also Exh. P-199 A (RUF Transcript of TF1-304, 12 January 2004), p.

given loot to carry to Tombodu/Tumbodu, explained, “What could I do at that moment? I was a captive. They did what they wanted to do.”<sup>3096</sup> Once in Tombodu/Tumbodu, civilians were sometimes coerced into other types of forced labour.<sup>3097</sup>

### *Koidu*

1093. Abduction of civilians, including women and children, by RUF and AFRC/RUF was commonplace in Koidu<sup>3098</sup> and civilians in Koidu were subject to “slavery.”<sup>3099</sup> Civilians were sent to and from Koidu as captives<sup>3100</sup> and performed various types of labour, particularly carrying loads.<sup>3101</sup> For instance, Sheku Bah Kuyateh, an abducted civilian, met another “slave” in Koidu who was abducted in Kabala.<sup>3102</sup> Family members of Komba Sumana faced the same fate. Rebels tied rope around their necks and forced them to carry rice, clothing, and other looted goods on their heads toward Koidu Town. Sumana later found his younger brother in Koidu, where the brother had been performing domestic chores since his capture.<sup>3103</sup> In August 1998 alone, hundreds of civilians served as forced porters carrying loads, ammunition, and wounded soldiers from Koidu to Kailahun.<sup>3104</sup> Civilians who were physically unable to carry loads assigned to them were shot or otherwise killed, their loads subsequently given to others to carry.<sup>3105</sup>

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18918 and (RUF Trial Transcript of TF1-304, 13 January 2005), pp. 18929-41: Civilians were forced by rebels to carry loads on their heads at Tombodu/Tumbodu.

<sup>3096</sup> TF1-216, TT, 28 October 2008, pp. 19333-40, 19343 and Exh. P-14. The witness and other civilians were captured by the RUF in the bush near Paema and forced to carry loads to Tombodu at gunpoint in April 1998.

<sup>3097</sup> Exh. P-199 A (RUF Trial Transcript of TF1-304, 13 January 2005), pp. 18929-41: Rebels gathered civilians in Tombodu and forced them to push vehicles from the bush into the village under gunpoint in 1999, and civilians were forced to collect food.

<sup>3098</sup> Exh. P-78, p. 13, paras. 1-2: Massenbendu, Koidu, was attacked on 11 May 1998. Rebels abducted two men and a small boy there. See also p. 15, para. 3: On 15 August 1998, rebels in Koidu area were reported to have released around 250 captured civilians. See also TF1-334, TT, 18 April 2008, pp. 7976-79: Civilians were captured at Masingbi Road, Koidu Town from mid-March to April 1998. See also TF1-114, TT, 15 January 2008, pp. 1242-46, 1253, 1261: Civilians captured in Koidu, as well as Masika and Makeni, were brought to Buedu and stronger civilians were taken to a training base in Bunumbu. The witness also places Morris Kallon at Koidu. See also TF1-201, TT, 31 October 2008, pp. 19695-99: TF1-201 was captured at gunpoint in Koidu Town in March 1998 and taken by his captor to RUF CO Mathew. He was forced to work as a mechanic.

<sup>3099</sup> TF1-114, TT, 15 January 2008, pp. 1256-57.

<sup>3100</sup> Exh. P-196 (RUF Transcript of TF1-077, 20 July 2004), pp. 18629-35: The witness and other civilians were abducted from Koidu Town and forced to carry looted items to Tombodu. See also TF1-201, TT, 31 October 2008, 19695-99.

<sup>3101</sup> TF1-114, TT, 15 January 2008, pp. 1243-46: Captured civilians were forced to carry loads from Koidu to Gandorhun. See also TF1-189, TT, 17 September 2009, pp. 16521-23.

<sup>3102</sup> TF1-201, TT, 31 October 2008, pp. 19695-99: The man the witness met worked for CO Mathew.

<sup>3103</sup> TF1-263, TT, 6 October 2008, pp. 17994-96.

<sup>3104</sup> TF1-189, TT, 17 September 2008, pp. 16521-23.

<sup>3105</sup> TF1-114, TT, 15 January 2008, pp. 1242-44. See also TF1-189, TT, 17 September 2008, pp. 16521-23.

1094. Civilians in Koidu, including adults and young boys, were forcibly recruited into fighting forces and coercively trained.<sup>3106</sup> These captive civilians received training in weaponry and were issued machetes with which they would be required to perform amputations.<sup>3107</sup>
1095. During the Junta period, the AFRC/RUF conducted mining activities under the control of commanders throughout Kono, including Koidu Town.<sup>3108</sup> Superman, Morris Kallon, and Issa Sesay and his representatives monitored diamond mining at Five-Five Spot and Masingbi Road, Koidu Town.<sup>3109</sup> Superman organized the mining in Koidu Town and the surrounding camps under instruction from Sam Bockarie and Morris Kallon.<sup>3110</sup>
1096. Captive miners were “thrashed”<sup>3111</sup> and some were killed when they refused to mine at Koidu.<sup>3112</sup> Enslaved civilians were forced to mine at gunpoint<sup>3113</sup> and worked day and night. When they were not working, groups of more than fifty civilians were crammed into guarded and locked shipping containers and houses to prevent escape. Rebels killed civilians who tried to flee. Rebels also carved “RUF” into the chests and foreheads of captive civilians, emblazoning ownership onto the bodies of these enslaved people and increasing the likelihood of death for those who managed to escape rebel control.<sup>3114</sup>

<sup>3106</sup> TF1-334, TT, 18 April 2008, p. 7977-79: Johnny Paul Koroma ordered training of civilians mid-March/April 1998 in Masingbi Road.

<sup>3107</sup> TF1-334, TT, 18 April 2008, pp. 7978-79.

<sup>3108</sup> TF1-334, TT, 17 April 2008, pp. 7912-16 and 18 April 2008, p. 8029: Mining activities continued during the Junta until the intervention in 1998 and after the intervention.

<sup>3109</sup> TF1-334, TT, 18 April 2008, pp. 8028-30.

<sup>3110</sup> TF1-360, TT, 5 February 2008, pp. 3144-46, 3148-49: Commanders under Superman supervised mining and provided security, including CO Kennedy, Mr Coomber, Mr Abdul, and Mr Alpha.

<sup>3111</sup> TF1-516, TT, 10 April 2008, pp. 7150-52.

<sup>3112</sup> TF1-275, TT, 21 February 2008, pp. 4513-15.

<sup>3113</sup> TF1-334, TT, 18 April 2008, pp. 8028-30. See also [REDACTED]

<sup>3114</sup> TF1-360, TT, 5 February 2008, pp. 3144-46.

Wondedu<sup>3115</sup>

1097. Enslaved civilians were kept under captivity at Wondedu.<sup>3116</sup> Captured civilians taken to Wondedu were among those whom the “rebels” marked with “RUF” and “AFRC” by carving the letters into their bodies. The markings were meant to prevent civilians from escaping.<sup>3117</sup> Civilians were forcibly sent on food finding missions from Wondedu, sometimes further than fifty miles away. Food found during such missions was referred to as “government property.” Civilians were warned not to go close to “government property” on threat of death.<sup>3118</sup>

#### *AFRC/RUF Camps*

1098. Many civilians were held at AFRC/RUF camps in Kono throughout the indictment period.<sup>3119</sup> At the various camps surrounding Koidu Town,<sup>3120</sup> including Superman Ground, Sewafe Bypass, Yomandu, Tombodu, Banya Ground (a sub-camp of Superman Ground) and Gandorhun Highway,<sup>3121</sup> AFRC/RUF forces would attack nearby areas, forcibly abduct civilians, and take them as captives back to the camps.<sup>3122</sup>

1099. Captive civilians were forced to perform work at these camps, including: diamond mining, collecting food, and carrying arms and ammunition which came from Taylor in Liberia through Kailahun District.<sup>3123</sup> Captives also did domestic chores—some

<sup>3115</sup> Rule 98 Decision, TT, 4 May 2009, p. 24202: “The trial chamber recalls its finding at paragraph 25 of the AFRC Rule 98 decision that it would not be appropriate or desirable to strike out the names of such locations given that a variety of languages and dialects are spoken in Sierra Leone and that some witnesses are illiterate. Thus names of locations mentioned by witnesses which are similar but not identical to the names of locations that appear in the indictment may refer to the same location.” See also AFRC Judgement, para. 115. The witnesses cited here provided evidence relating to “Wondedu” despite the location being spelt differently during testimony.

<sup>3116</sup> TF1-015, TT, 8 January 2008, pp. 693, 696–704: TF1-015 was taken to Wondedu after being captured in April 1998. See also TF1-217, TT, 28 October 2008, pp. 19391-94: Captain Bai Bureh captured the witness’ sister at Wondedu. He did not see her again until disarmament. He also observed other captured girls who had been captured elsewhere and were brought to Wondedu.

<sup>3117</sup> TF1-015, TT, 8 January 2008, p. 707.

<sup>3118</sup> TF1-015, TT, 8 January 2008, pp. 704–706, 708: The witness’ teeth were knocked out when he tried to prevent KS Banya from sending the same group of civilians on a meat finding mission when they had gone on a food finding mission the previous day.

<sup>3119</sup> TF1-360, TT, 5 February 2008, pp. 3125-27, 3130-34 and Exh. P-51: The witness explained that captured civilian women from Banya Ground were living with commanders and used as labourers. The exhibit lists fifty-one civilians used for food-finding missions and twelve captive civilians from Banya Ground. The exhibit lists women under the charge of “fighting men” from the AFRC/RUF.

<sup>3120</sup> TF1-360, TT, 5 February 2008, pp. 3114-15; TF1-584, TT, 18 June 2008, pp. 12174-84 and Exh. P-146: the witness marked on a map several of the various camps.

<sup>3121</sup> TF1-360, TT, 5 February 2008, pp. 3114-15.

<sup>3122</sup> TF1-360, TT, 5 February 2008, p. 3115-16. See also TF1-303, TT, 29 January 2009, pp. 23864-73; TF1-263, TT, 10 June 2008, pp. 17924-28.

<sup>3123</sup> TF1-360, TT, 5 February 2008, pp. 3115-17.



pounded husk rice in the morning and others fetched water.<sup>3124</sup> Civilians at PC Ground were made to carry loads on their backs and heads.<sup>3125</sup> At Superman Ground, civilians were forced to do “government work,” cultivating rice.<sup>3126</sup>

1100.AFRC/RUF also sent captive civilians on food finding missions from the camps.<sup>3127</sup> These missions involved entering civilian areas, attacking civilians, and taking their food. The AFRC/RUF forces would then abduct more civilians and force them to transport the captured food back to the base.<sup>3128</sup>

1101.Captured civilians were forcibly trained for fighting, including civilians at Superman Ground.<sup>3129</sup> More than 200 captive civilians from PC Ground<sup>3130</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>3131</sup>

1102.Captive civilians had no freedom at AFRC/RUF camps in Kono.<sup>3132</sup> One civilian at Superman Ground who attempted to escape was recaptured, forced to parade and then his testicles were lacerated. Rebels then forced other civilians to kill him.<sup>3133</sup> At PC Ground, civilians who disobeyed orders were shot or beaten.<sup>3134</sup>

<sup>3124</sup> TF1-263, TT, 10 June 2008, pp. 17924-28.

<sup>3125</sup> TF1-584, TT, 18 June 2008, pp. 12160, 12194-98: TF1-584 arrived in PC Ground in March 1998 and stayed for five months.

<sup>3126</sup> TF1-303, TT, 29 January 2009, pp. 23875-76.

<sup>3127</sup> TF1-360, TT, 5 February 2008, pp. 3115-17.

<sup>3128</sup> TF1-360, TT, 5 February 2008, p. 3117.

<sup>3129</sup> TF1-303, TT, 29 January 2009, pp. 23875-76.

<sup>3130</sup> TF1-263, TT, 10 June 2008, pp. 17929-31: TF1-263 arrived at PC Ground in April 1998. More than 200 civilians arrived there with him; Issa Sesay said they were being sent for training to Kailahun on Sam Bockarie's orders. Thereafter, Morris Kallon selected women, men and children for training. The witness saw Mosquito at PC Ground, as well as a woman named Monica, under whom he was forcibly trained to fight for two months.

<sup>3131</sup> [REDACTED]

<sup>3132</sup> TF1-360, TT, 5 February 2008, pp. 3115-17.

<sup>3133</sup> TF1-303, TT, 29 January 2009, pp. 23874-75.

<sup>3134</sup> TF1-584, TT, 18 June 2008, pp. 12160, 12194-98.

## Kailahun District

### *Overview*

1103. Throughout the Indictment Period, the strategic Kailahun District, located between Liberia and the diamond-rich Kono, facilitated easy movement across the border into Liberia. This District also provided significant support for AFRC/RUF operations via thousands of forced labourers.<sup>3135</sup>

1104. In particular, Kailahun District was a main transport and supply route for Junta and AFRC/RUF forces moving between Sierra Leone and Liberia from about 1997 to early 2002. Between 1998 and 2000, arms, ammunition, and supplies were regularly transported from Liberia to Buedu, the AFRC/RUF Headquarters. The main modes of transport from Liberia into Kailahun and within Kailahun itself were trucks and/or civilians who were forced to carry materiel.<sup>3136</sup> During the Indictment Period, the RUF and its allies brought abducted civilians from other areas of Sierra Leone and used these captives alongside Kailahun natives as slave labour to transport arms, ammunition and other materiel, to farm, to perform domestic work, and to fight for the AFRC/RUF forces.<sup>3137</sup>

1105. Civilians were forced to perform other duties for the Indictment Perpetrators such as laundry, cooking, gardening and road-clearing. If the civilians refused to work, they

<sup>3135</sup> Exh. P-78, p. 15, para. 2; TF1-330, TT, 19 February 2008, p. 4252; TF1-114, TT, 15 February 2008, p. 1277: enslavement occurred until the ceasefire - approximately 500 children & 800 adults were recruited through the AFRC/RUF MP office.

<sup>3136</sup> TF1-114, TT, 15 January 2008, pp. 1252-53; TF1-314, TT, 20 October 2008, pp. 18678-83: captured civilians were forced to carry looted items from villages, on their heads, back to Buedu; TF1-015, TT, 8 January 2008, pp. 730-736: 150 civilians from Superman Ground were forced to carry boxes of arms and ammunition from Dawa to Sam Bockarie's residence in Buedu; [REDACTED]

[REDACTED] See also TF1-375, TT, 23 June 2008, pp. 12532-43, and 28 August 2008, p. 14822 (time frame): In 1998, Sam Bockarie sent the witness to Gbarnga to pick up ammunition provided by Charles Taylor and to bring it back to Buedu. This ammunition was later distributed by Bockarie for attacks on Segbwema, Daru Barracks and Koidu Town. Civilians were forced to transport the ammunition on their heads from the Moa River crossing point to Superman Ground, a twelve-hour walk. See also DCT-068, TT, 12 March 2010, p. 37201: confirmed that civilians who were in captured areas were forced to carry ammunition boxes on footpaths.

<sup>3137</sup> TF1-330, TT, 20 February 2008, pp. 4293-97: Sam Bockarie's and Issa Sesay's group came back to Kailahun in 1998 after retreating from Freetown and brought abducted civilians, including adult women and young girls whom they had forced into sexual slavery. See also TF1-330, TT, 19 February 2008, p. 4252: civilians were enslaved, they would have to do whatever they were told to do, they were not free; Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15059-61; Exh. P-174 (RUF Transcript of TF1-122, 7 July 2005) p. 15162; [REDACTED]; TF1-045, TT, 13 November 2008, pp. 20171-74, 20167 (time frame). See also TF1-532, TT, 31 March 2008, pp. 6202-04; TF1-114, TT, 15 January 2008, pp. 1277-78: Approximately 500 children and 800 adult men and women were recruited through the AFRC/RUF MP office in 1998-1999. The Defence also supports this assertion. See DCT-299, TT, 24 June 2010, pp. 43333-35: the witness testified that the RUF forced civilians to cultivate farms, to carry produce to the riverside with Guinea to trade, and they used civilian chairmen or town commanders to organize the civilians.

were flogged until they were willing.<sup>3138</sup> Civilians were not allowed to freely move around the territory controlled by the RUF, AFRC/RUF—those caught travelling without a pass were killed.<sup>3139</sup>

1106.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

3140

3141

#### *Various locations*

#### *Buedu*

1107. Civilians captured by the AFRC/RUF forces in 1998 and 1999 from various locations throughout Sierra Leone including Freetown, Masiaka, Makeni and Koidu, were brought to Buedu or to the training base in Bunumbu. They were forced to carry loads from one town to another, to work on the farms of Sam Bockarie, Issa Sesay and Morris Kallon, and to train as fighters.<sup>3142</sup> Civilians who dared to refuse to work or tried to escape would have their property burned or would be detained in military cells in Buedu.<sup>3143</sup>

1108. Women were not spared from forced labour.<sup>3144</sup> From Buedu, groups of SBUs, SGUs and sometimes older people would go on food finding missions and capture civilians and use them to take looted items back to Buedu.<sup>3145</sup> Abducted women not claimed by commanders as sexual slaves, were forced to do domestic work or serve as bodyguards.<sup>3146</sup> Those who attempted to escape were killed.<sup>3147</sup> [REDACTED]

<sup>3138</sup> TF1-045, TT, 13 November 2008, pp. 20204-06.

<sup>3139</sup> TF1-045, TT, 12 November 2008, pp. 20204-06; TF1-114, TT, 15 January 2008, pp. 1258-61, 1264.

<sup>3140</sup> [REDACTED]

<sup>3141</sup> [REDACTED]

<sup>3142</sup> TF1-114, TT, 15 January 2008, pp. 1261, 1263-1266, 1271-72; TF1-314, TT, 20 October 2008, pp. 18687-89; the witness explained that this went on from 1994 until 1998 in Buedu. See also TF1-330, TT, 19 February 2008, pp. 4270-72, 4252, 4249.

<sup>3143</sup> TF1-114, TT, 15 January 2008, pp. 1261, 1265-67.

<sup>3144</sup> TF1-577, TT, 9 June 2008, pp. 11348-49; women abducted during the retreat after the Freetown intervention and brought forcibly to Kailahun District were distributed by the G5 amongst commanders and soldiers. See also TF1-314, TT, 20 October 2008, pp. 18665-68, 18677-83; TF1-314 was abducted in Masingbi in 1994 at the age of 11 and brought to Buedu where she remained in slavery until 1998. While in captivity from 1994 to 1998, she was assigned to a Small Girls Unit (SGUs) with five other girls and made to do domestic work for the wives of RUF commanders Sam Bockarie aka Mosquito, CO Issa, Superman, Morris Kallon and Augustine Gbao; [REDACTED]

<sup>3145</sup> TF1-314, TT, 20 October 2008, pp. 18678-83.

<sup>3146</sup> TF1-314, TT, 20 October 2008, pp. 18685-87.

<sup>3147</sup> TF1-314, TT, 20 October 2008, pp. 18687-89.

[REDACTED]

[REDACTED] <sup>3148</sup>

1109. In 1998 following Taylor's message that an airfield was necessary for the delivery of arms and ammunition, Sam Bockarie ordered civilians to work on the construction of the airstrip near Buedu.<sup>3149</sup> The RUF sent between 200 and 300 civilians to work on the field day and night with security escorts.

*Locations in the Luawa Chiefdom*

1110. In Yandohun, Luawa Chiefdom, Issa Sesay and Sam Bockarie forced civilians to mine for diamonds in 1997.<sup>3150</sup>

1111. Civilians were also forced to mine at a site between Monfidor in the Luawa Chiefdom and Sahbahun near the Moa River.<sup>3151</sup>

*Talia*

1112. From 1996 to 2000, the RUF forced around 50 civilians to farm in Talia. The civilians would do the clearing, harvest the rice and hand it over to the RUF.<sup>3152</sup> The civilians were not paid and those who refused to work were beaten.<sup>3153</sup>

1113. From 1997 to 1999, every adult in Talia was forced to work in the production of palm oil during the month of March.<sup>3154</sup> Civilians were then forced to transport the oil to the riverside on their heads. The rebels sold the oil and in return bought salt, maggi and rice.<sup>3155</sup> Civilians then carried these items to the RUF store.<sup>3156</sup> The women of Talia were also forced by the G5 commander to fish for the RUF and if they refused, they would be beaten.<sup>3157</sup>

<sup>3148</sup> [REDACTED]

<sup>3149</sup> TF1-114, TT, 15 January 2008, pp. 1267-68; TF1-276, TT, 23 January 2008, pp. 1985-88; TF1-532, TT, 31 March 2008, pp. 6202-04; [REDACTED]; TF1-360, TT, 5 February 2008, pp. 3115-17; TF1-114, TT, 15 January 2008, pp. 1267-68.

<sup>3150</sup> TF1-330, TT, 19 February 2008, pp. 4274-80 and 20 February 2008, pp. 4290-91.

<sup>3151</sup> TF1-330, TT, 19 February 2008, pp. 4274-80 and 20 February 2008, pp. 4253, 4290-91: civilians were beaten if they delayed the work, the witness himself was beaten many times.

<sup>3152</sup> TF1-330, TT, 19 February 2008, pp. 4251-53 and 19 February 2008, pp. 4259-61, 4282-84.

<sup>3153</sup> TF1-330, TT, 19 February 2008, pp. 4251-53.

<sup>3154</sup> TF1-330, TT, 19 February 2008, pp. 4261-65.

<sup>3155</sup> *Ibid.*

<sup>3156</sup> *Ibid.*

<sup>3157</sup> TF1-330, TT, 19 February 2008, pp. 4266-68.

*Giema*

1114. While the civilians of Giema were near starvation and survived merely on palm cabbage, large numbers were forced to cultivate a swamp farm for Issa Sesay from 1996 to 2000.<sup>3158</sup> The rice harvested from this farm fed Sesay, his associates and his family.<sup>3159</sup> Around 150 civilians were forced to work on a big farm in Giema for the RUF in 1997.<sup>3160</sup>

*Kailahun Town*

1115. Following the February 1998 ECOMOG intervention, AFRC/RUF forces retreating from Kenema captured more than 400 civilians, including beautiful women and physically strong men, and took them to Kailahun Town.<sup>3161</sup> Abducted civilians were forced to carry the loads of the AFRC/RUF forces during this retreat.<sup>3162</sup>

1116. From 1996 to 2001, between 400 and 800 civilians were forced to weed Kailahun Town, using hoes and machines.<sup>3163</sup> While forced farming was done everyday, the weeding was done periodically.<sup>3164</sup> In 1998, other enslaved civilians in Kailahun Town were forced to do domestic duties for commanders.<sup>3165</sup>

1117. In August 1998, civilians were forced by the AFRC/RUF to carry ammunition and wounded soldiers from Koidu to Kailahun Town.<sup>3166</sup> Those who could not carry an assigned load were killed, including a 12-year-old boy.<sup>3167</sup>

*Bunumbu / Camp Lion training base*

1118. Large numbers of captured civilians abducted from Kono, Kailahun and other Districts by AFRC/RUF forces were forcibly trained at the Bunumbu training base in Kailahun

<sup>3158</sup> TF1-330, TT, 19 February 2008, pp. 4258-59, 4284-85: Five of TF1-330's children died in the Talia jorbush due to malnutrition.

<sup>3159</sup> TF1-330, TT, 19 February 2008, pp. 4258-59.

<sup>3160</sup> TF1-330, TT, 19 February 2008, pp. 4256-58.

<sup>3161</sup> TF1-045, TT, 13 November 2008, pp. 20171-74.

<sup>3162</sup> Exh. D-60, p. 4, para. 20.

<sup>3163</sup> TF1-330, TT, 19 February 2008, pp. 4272-74.

<sup>3164</sup> TF1-330, TT, 20 February 2008, p. 4305.

<sup>3165</sup> TF1-189, TT, 17 September 2008, pp. 16523-25

<sup>3166</sup> TF1-189, TT, 17 September 2009, pp. 16521-23.

<sup>3167</sup> TF1-189, TT, 17 September 2009, p. 16522.

District.<sup>3168</sup>

<sup>3169</sup>

1119. Recruits were required to undergo military training and were also involved in food finding missions and domestic work, including cultivating a farm and fetching water.<sup>3170</sup> Civilians trained at Bunumbu included captives from Freetown and those captured on the retreat after the Intervention, as well as captives sent from PC Ground in Kono.<sup>3171</sup>

<sup>3172</sup>

*Various locations*

1120. In 1999, civilians captured in the Daru and Segbwema area by RUF and AFRC fighters were forced to carry loads for the fighters.<sup>3173</sup>

1121. Around 500 civilians were captured in Pendembu; many were forced to do domestic work.<sup>3174</sup> In Pendembu from May/June 1999 to July 2000, fighters would sign up for women who they would then take to their houses and force to perform sexual intercourse and domestic work.<sup>3175</sup>

1122. From 1996 to 2000, civilians in Sandialu were forced to harvest coffee which was ultimately given to RUF commander Augustine Gbao.<sup>3176</sup>

1123. In 2000, TF1-577 was sent to Vahun, Liberia by Issa Sesay to take a letter to General 50. In response to the letter, General 50 gave TF1-577 ammunition packed in two vehicles to take to Bomaru. Strong civilian men in Bomaru were made to carry the

<sup>3168</sup>

TF1-114, TT, 15 January 2008, pp. 1261-66; TF1-314, TT, 20 October 2008, pp. 18687-88; TF1-263, TT, 6 October 2008, pp. 17926-36; See also Exh. D-13, p. 00007795.

<sup>3169</sup>

<sup>3170</sup>

TF1-263, TT, 6 October 2008, pp. 17928-36.

<sup>3171</sup>

TF1-114, TT, 15 January 2008, p. 1261: captives came from Makeni, Masiaka, Koidu; TF1-263, TT, 6 October 2008, pp. 17926-36.

<sup>3172</sup>

<sup>3173</sup> TF1-337, TT, 5 March 2008, pp. 5320-23; Exh. D-60 (SCSL, Office of the Prosecutor, Interview Notes of TF1-122, 25 November 2004), p. 4, para. 19.

<sup>3174</sup> TF1-337, TT, 5 March 2008, pp. 5320-24: TF1-337 worked as an IDU Chief in the office where civilians were collected by fighters from May/June 1999 – July 2000.

<sup>3175</sup> TF1-337, TT, 5 March 2008, pp. 5326-27 (see 4 March 2008, p. 5234 for the time period).

<sup>3176</sup> TF1-330, TT, 19 February 2008, pp. 4268-70 (see 19 February 2008, pp. 4245, 4251 for the time frame).

loads of ammunition to Pendembu, then to Manowa Ferry, and further into Kailahun.<sup>3177</sup>

1124. Civilians were abducted in Koidu Town and taken to Superman Ground. Some were then taken to other locations including Dodo, Balahun, Talia, Ngeigor, and Mamboma in Kailahun to work for relatives of AFRC/RUF fighters or to engage in activities such as cultivation of rice.<sup>3178</sup>

#### Freetown and Western Area

1125. Abductions and enslavement were features of the Freetown invasion and subsequent retreat. In the advance to Freetown, AFRC and RUF forces brought captives who had been captured from other parts of Sierra Leone and used them to further the rebel attack on the capital. These captives were also forced to retreat with the rebels when they were driven out of Freetown. A second wave occurred during the occupation of Freetown and its environs as the AFRC/RUF forces enslaved civilians who were forced to accompany the rebels during the retreat.<sup>3179</sup>

1126. During the invasion, enslavement occurred alongside the other Indictment Crimes. In this violent environment, abductees were forced to perform a variety of tasks including carrying loads, domestic work, forced labour and military tasks, and they were also used as human shields and forced recruits.

1127. One of the initial attacks in the Western Area occurred around 22 to 23 December 1998 when rebels attacked Waterloo and Tombo.<sup>3180</sup> Civilians were enslaved and young boys were abducted.<sup>3181</sup> The AFRC/RUF forces advanced through Madina and Benguema, capturing ammunition, burning houses, and abducting civilians.<sup>3182</sup> The advancing forces were accompanied by “family members” through early January 1999

<sup>3177</sup> TF1-577, TT, 5 June 2008, p. 11105-10.

<sup>3178</sup> TF1-303, TT, 29 January 2009, pp. 23958, 23875-83; TF1-303 was sent by Sankoh to care for his mother; other women were forced to take care of other commanders' mothers. TF1-303's work in Giema included pounding rice, cooking and fishing; she also did government work – planting seeds and weeding. Once when she refused to work because she was tired, she was put in a dungeon for a day.

<sup>3179</sup> [REDACTED]; Exh. P-328, p. 23001, para. 6.

<sup>3180</sup> TF1-334, TT, 22 April 2008, p. 8242; Exh. P-308, p. 21473; TF1-097, TT, 16 October 2008, p. 18560.

<sup>3181</sup> TF1-097, TT, 16 October 2008, pp. 18560-63 and 17 October 2008, pp. 18621-23.

<sup>3182</sup> TF1-360, TT, 6 February 2008, pp. 3213-14.

as they captured Hastings and Allen Town.<sup>3183</sup> During the violent advance, rebels abducted over 1,000 civilians and forced them to carry loads.<sup>3184</sup>

1128. On 6 January 1999, State House was secured by the rebels and used as a base.<sup>3185</sup> At this location around fifty civilians, including TF1-024, were imprisoned without food and water for four days. TF1-024 and other captive civilians were taken to State House under threat of death after witnessing rebels shoot many civilians for refusing to join the fighting forces. TF1-024 left State House when Gullit forced him to carry a large bomb to Calaba Town.<sup>3186</sup>

1129. Rebel forces advancing into and through Freetown on 6 and 7 January 1999 forced civilians into the streets and used them as human shields. Those who resisted were either killed or their properties were destroyed.<sup>3187</sup>

1130. During the retreat, rebels perpetrated large-scale, violent abductions of civilians as they were pushed out of Freetown and the Western Area. Often abductions were brutal and relatives who tried to resist were beaten or killed.<sup>3188</sup> Sometimes entire family units were abducted together.<sup>3189</sup> Young people, especially women, and between 1,500 and 3,000 children were the main objects of abduction<sup>3190</sup> and were forced to carry looted goods, do domestic work and act as human shields. Children were taken for training as SBUs/SGUs.<sup>3191</sup>

1131. The retreating troops amassed captured civilians as they moved through Wellington,<sup>3192</sup> Calaba Town,<sup>3193</sup> Allen Town,<sup>3194</sup> Waterloo,<sup>3195</sup> Hastings, and Benguema.<sup>3196</sup> Witness

<sup>3183</sup> TF1-334, TT, 22 April 2008, pp. 8263-69; as the witness explained, "family members" were civilians who had been captured by the AFRC/RUF; and 24 April 2008, pp. 8440-41. See also Exh. P-109, where "Hastings" is location no. 5 and "Allen Town" is no. 2.

<sup>3184</sup> TF1-360, TT, 6 February 2008, pp. 3213-14.

<sup>3185</sup> TF1-360, TT, 6 February 2008, p. 3224-27.

<sup>3186</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20427-37, 20464-65.

<sup>3187</sup> [REDACTED]; Exh. P-328, p. 23000, para. 5.

<sup>3188</sup> [REDACTED]; Exh. P-328, p. 23001, para. 6 to p. 23002, para. 1.

<sup>3189</sup> Exh. P-328, p. 23001, para. 6 to p. 23002, para. 1.

<sup>3190</sup> Exh. P-328, p. 22999, para. 2; p. 23000, para. 5; p. 23001, para. 4 to p. 23002, para. 1. See also Exh. D-191, para. 26; Exh. P-365, p. 00020947, para. 4.

<sup>3191</sup> [REDACTED]; Exh. D-191, para. 26; Exh. P-222 (AFRC Transcript of TF1-217, 7 March 2005), pp. 20427-37, 20464-65; TF1-334, TT, 23 April 2008, pp. 8347-50; TF1-026, TT, 14 February 2008, pp. 3862-65; TF1-360, TT, 6 February 2008, p. 3252. See also relevant sections of Exh. P-328, p. 23003, paras. 3-4. See further TF1-375, TT, 24 June 2008, p. 12613.

<sup>3192</sup> TF1-085, TT, 23 October 2008, pp. 19172-82; TF1-085 was beaten, captured, and given ammunition to carry; TF1-026, TT, 14 February 2008, pp. 3843-44, 3847-50, 3864-65; the RUF forcibly abducted TF1-026 and up to fifty other civilians in Wellington and rebels continued abducting civilians from villages along the way to Calaba Town. Captives were forced to carry bags of loot. See also Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19415-18, 19420, 19421-22.



A.B. Sesay explained, "If I say to her, 'You are to pound this rice', she will do it. If I tell her, 'You are going to join this patrol to carry loads', she will do it."<sup>3197</sup> Captives suffered, and some wept as they worked.<sup>3198</sup>

## IX.I. COUNT 11: LOOTING

### COUNT 11: APPLICABLE LAW

1132. In the AFRC Judgement Trial Chamber II, in addition to the contextual elements of violations of common article 3 and AP II adopted the following elements for the crime of pillage:

- (i) the perpetrator appropriated property;
- (ii) the appropriation was without the consent of the owner;
- (iii) the perpetrator intended to deprive the owner of property.<sup>3199</sup>

1133. In relation to the elements of looting the following footnoted sources or law are relied upon.<sup>3200</sup>

<sup>3193</sup> TF1-026, TT, 14 February 2008, pp. 3843-44, 3847-50. See also Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19415-18, 19420-22, 19435-36.

<sup>3194</sup> Exh. P-205(a) (AFRC Transcript of TF1-023, 9 March 2005), pp. 19321-25: In Calaba Town, TF1-023 was abducted with four men, three women, a young child, and two boys. The group joined with 200 others and continued to Allen Town, and all had been captured for use as a human shield. The witness was forced to carry a load. At Allen Town there were around 100 civilians who had been captured and 300 to 400 armed rebels. At Allen Town, the witness and other civilians were not free to move around and were watched by armed SBUs. See also TF1-085, TT, 23 October 2008, pp. 19172-82.

<sup>3195</sup> TF1-026, TT, 14 February 2008, pp. 3862-68: After two days in Calaba Town, civilians were forced to walk to Waterloo with loads on their heads; they went in fear of violence threatened against those who tried to escape. More civilians were abducted on the way to Waterloo. See also TF1-085, TT, 27 October 2008, p. 19196-98.

<sup>3196</sup> Exh. P-206 (RUF Transcript of TF1-029, 28 November 2005), pp. 19415-18, 19420, 19421-22. See also TF1-334, TT, 23 April 2008, pp. 8391-95. See also Exh. P-215 (AFRC Transcript of TF1-227, 11 April 2005), pp. 20830-31, 20834-38, 20867-69: At Benguema, civilians including TF1-227 were forced to do domestic work; TF1-334, TT, 23 April 2008, pp. 8391-95: Civilians in Benguema were used to pound rice, to cook, act as guards, go on food finding patrols, and to carry spoils from such patrols. Women and girls were used for domestic labour and as bush wives.

<sup>3197</sup> TF1-334, TT, 23 April 2008, p. 8393.

<sup>3198</sup> Exh. P-215 (AFRC Transcript of TF1-227, 8, 11 & 12 April 2005), pp. 20817-20, 20822, 20830-31, 20834-38, 20867-69; TF1-227, TT, 27 October 2008, pp. 19299, 19302-03, 19305: The AFRC abducted TF1-227 on 22 January 1999 and forced him to carry looted goods to Kola Tree under gunpoint and threat of violence. He was kept with a group of over 200 civilians at Kola Tree. These civilians, abducted under gunpoint and threat of violence, were forced to do domestic work, cook, dismantle a bridge under the watch of armed guards, and act as guards themselves.

<sup>3199</sup> AFRC Trial Judgement, para. 755.

<sup>3200</sup> AFRC Trial Judgement, para. 755; AFRC Rule 98 decision, para. 269; CDF Trial Judgement, paras. 159-163; RUF Trial Judgement, paras. 209-210 (esp. referring to *Kordić and Čerkez* Appeal Judgement, para. 83); CDF Appeal Judgement, paras. 380-409.

## COUNT 11: EVIDENCE

1134. The evidence proves beyond reasonable doubt the Accused's guilt in respect of Count 11 under Article 6.1 and, or alternatively, Article 6.3 of the Statute as charged in the Indictment.<sup>3201</sup>

### General

1135. The focus of Count 11 is looting committed first, in Kono, Bombali and Port Loko Districts in the context of Operation Pay Yourself and secondly, in Freetown and Western Area as part of the Freetown Invasion. However, looting was endemic and occurred throughout Sierra Leone and throughout the conflict.

1136. Looting was one of the most frequently perpetrated crimes against civilians during the conflict. [REDACTED]<sup>3202</sup> – it paid and incentivised fighters,<sup>3203</sup> provided supplies and logistics for combat activities and terrorised the civilian population. The importance of looting throughout the conflict was summarised by the former RUF fighter, Mustapha Mansaray: “From April 1991 up to the time of the disarmament in 2001 we ... lived on looted properties. All the RUF fighters, senior commanders, we ... lived on looted items.”<sup>3204</sup>

1137. Before and during the Indictment Period, looting was an integral part of the fighting forces' *modus operandi*<sup>3205</sup> and was learned from the NPFL. A former NPFL fighter who later joined the RUF, Isaac Mongor, testified that, from the beginning, the NPFL did not pay their soldiers and so “looted vehicles and all things” from civilians.<sup>3206</sup> Indeed, the Accused, the NPFL leader, was seen using looted vehicles.<sup>3207</sup> This institutionalised NPFL practice was adopted by the RUF. From the RUF's inception, the role of looting in war was taught. [REDACTED]

[REDACTED]<sup>3208</sup>

<sup>3201</sup> Indictment, paras. 29-31; Amended Case Summary, para. 29; Pre-Trial Brief, paras. 81, 83, 101, 110 & 115.

<sup>3202</sup> [REDACTED]

<sup>3203</sup> TF1-532, TT, 31 March 2008, pp. 6200-01.

<sup>3204</sup> TF1-337, TT, 6 March 2008, pp. 5396-97.

<sup>3205</sup> Exh. P-307, p. 21461, para. 36.

<sup>3206</sup> TF1-532, TT, 31 March 2008, pp. 6201-02.

<sup>3207</sup> *Ibid.*

<sup>3208</sup> [REDACTED]

See also TF1-015 who explained that in Wonedu, Kono District, in April 1998,

1138. Following the joint attack on Sierra Leone by RUF and NPFL forces in March 1991, theory became practice for the RUF. NPFL fighters began looting goods in Sierra Leone and taking them back to Liberia.<sup>3209</sup> The evidence shows that the RUF fighters under the command of senior Liberian NPFL fighters followed suit.<sup>3210</sup> However, when the crimes including looting being perpetrated in Sierra Leone by Liberian fighters reached such a level of intensity, Sankoh was forced to complain to Taylor. But Taylor dismissed Sankoh's complaint saying, "When you talk about a guerilla war it is destruction and this type of thing must happen if you are fighting a war."<sup>3211</sup>

1139. Even after the Liberian withdrawal in 1992 following Top 20, Top 40 and Top Final, looting continued in Sierra Leone. However, this looting was not *ad hoc*. [REDACTED]<sup>3212</sup> and was conducted throughout the war including the Indictment Period to provide or supplement food supplies.<sup>3213</sup> "Food finding missions" were a core activity of the Indictment Perpetrators<sup>3214</sup> and were often carried out by child soldiers.<sup>3215</sup> These missions placed the civilian population under constant

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food brought back from food finding missions for the rebels was referred to as "government property" and civilians were forbidden to touch it (TF1-015, TT, 8 January 2008, pp. 683 (time frame), 705-06.<sup>3209</sup>

DCT-215, TT, 30 March 2010, p. 38277; DCT-172, TT, 17 August 2010, p. 46451. See also [REDACTED]

<sup>3210</sup> TF1-337, TT, 4 March 2008, pp. 5245-50. When the witness was based in Bumpah Perri in August to November 1991, the RUF used to search civilians for property (clothing, food, money, etc.) and take it away forcefully. Any civilian who refused was killed by senior commanders. The majority of the senior commanders were Liberians and belonged to the NPFL.

<sup>3211</sup> TF1-561, TT, 14 May 2008, p. 9862.

<sup>3212</sup> [REDACTED]

<sup>3213</sup> DCT-146, TT, 18 March 2010, pp. 37493-95 who testified about taking crops without consent of those who had planted or owned the crops.

<sup>3214</sup> [REDACTED]

[REDACTED] TF1-334, TT, 18 April 2008, p. 7981: in Kono in the post-Intervention period, commanders organised food finding patrols to find food for the entire battalion. These patrols would go into the jungle, attack civilians and take away their food. The patrols would also capture the civilians and use them to carry the food for them. See also TF1-334, TT, 23 April 2008, pp. 8376, 8391, 8395-6: when the witness' AFRC group settled for a month in Benguema after the retreat from Freetown in January 1999, boys between the ages of 8 and 12 performed various duties including food finding missions and carrying looted goods.

<sup>3215</sup> TF1-174, TT, 28 January 2009, pp. 23785, 23828-29. This witness testified about RUF food finding missions in villages near Makeni when items were taken by force from civilians. These missions were conducted by "one adult and mostly the SBUs." See also TF1-314, TT, 20 October 2008, pp. 18678, 18683, 18702: this witness participated in two missions while based in Buedu. Details of the mission are provided at pp. 18680-83. See further [REDACTED]; TF1-158, TT, 21 October 2008, pp. 18904, 18825-27: this former child soldier went on food finding missions in Rosos in around May 1998. The missions were organized by Staff Alhaji (who reported to Gullit and Five-Five). On the missions they carried arms and took food items and goats, chickens and other things from the civilians.

pressure and fear. In Makeni in December 1998 food finding missions “were happening almost every day until the time of disarmament” and “were activities of no calmness.”<sup>3216</sup>

1140. Looting was so ingrained in the military strategy of the rebel forces that Operations with rampant looting as their primary goal were frequently declared by senior commanders during the conflict.<sup>3217</sup> The effectiveness of looting as a tool of war, either as part of such Operations or otherwise, was that it was generally perpetrated in association with the other crimes charged in the Indictment.<sup>3218</sup> Those who resisted the looters were frequently killed,<sup>3219</sup> subjected to acts of physical violence,<sup>3220</sup> or raped.<sup>3221</sup> Other civilians were used as forced labour to transport the looted goods, in many cases transporting their own property which had been taken by the rebels.<sup>3222</sup> The ultimate objective of this was to terrorize innocent civilians.

1141. [REDACTED]<sup>3223</sup>  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]<sup>3224</sup> [REDACTED]  
 [REDACTED]<sup>3225</sup> It was this latter policy which was followed by the majority

<sup>3216</sup> TF1-174, TT, 28 January 2009, pp. 23785, 23809.

<sup>3217</sup> See evidence in paras. 1142-1146.

<sup>3218</sup>

[REDACTED] See also TF1-360, TT, 5 February 2008, pp. 3095-101: the combatants leaving Freetown following the Intervention stole food, abducted civilians, raped women (killing those who resisted), killed their husbands, burned down houses and destroyed property; Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20598-99: this witness was a civilian whose hand was amputated in January 1999 in Kissy after \$200 and his wrist watch (worth \$300) were taken.

<sup>3219</sup> TF1-334, TT, 23 April 2008, pp. 8347-50: during the Freetown Invasion, items were looted from civilians and, if they refused to hand over items, they would die. The witness himself shot people who refused to hand over items. See also Exh. P-328, p. 23000; TF1-360, TT, 5 February 2008, pp. 3095-101: during Operation Pay Yourself, civilians in Makeni who refused to hand over their property were killed.

<sup>3220</sup> See for example TF1-143, TT, 5 May 2008, pp. 9033-36: this former child soldier testified about amputating the hands of two men in Kissy for their refusal to open their shop when witness and another went there to loot. See also Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20598-99.

<sup>3221</sup> TF1-360, TT, 5 February 2008, pp. 3095-3101; TF1-263, TT, 6 October 2008, pp. 17887-89; TF1-085, TT, 27 October 2008, pp. 19192-93.

<sup>3222</sup> TF1-334, TT, 18 April 2008, p. 7981: according to this witness, food finding patrols would capture civilians and use them to carry the food for them; Exh. P-215 (AFRC Transcript of TF1-227, 8 April 2005), pp. 20817-18: Corporal Bastard from the AFRC stole the witness' wedding ring, money and other items from his house and then forced the witness to carry these looted items back to the base at Kola Tree.

<sup>3223</sup> See for example [REDACTED]  
 [REDACTED]  
 [REDACTED]

<sup>3224</sup>

<sup>3225</sup> See above at para. 1137.

of fighters, endorsed and ordered by senior commanders.<sup>3226</sup> The Internal Defence Unit wrote reports about looting but, as one of the IDU agents confirmed, from November 1996 it was a “completely paper exercise” and “action was not taken.”<sup>3227</sup>

### **Operation Pay Yourself**

1142. With the declaration of “Operation Pay Yourself” by JPK over the international media in February 1998 there commenced a “continuous looting spree from the civilians” by retreating AFRC/RUF forces.<sup>3228</sup> With the Junta ousted from power, there was no money to pay the fighters, so Koroma ordered that they “should go around and loot and take whatever they ... wanted which was valuable to them” from civilians.<sup>3229</sup>

1143. On reaching Makeni, senior AFRC/RUF commanders reinforced the order for Operation Pay Yourself.<sup>3230</sup> At a meeting, these commanders discussed how they were going to feed the combatants now that they were retreating to the jungle.<sup>3231</sup> It was strategically decided that “each ... soldier should take ... responsibility [for] feeding himself.” They “should gather food for [themselves] and all that [they] needed to use during the time [they] were in the jungle. ... Operation Pay Yourself meant [they] could take anything from [a] civilian.”<sup>3232</sup>

1144. Once declared, the order was implemented with ferocity as the forces cut a swathe across Sierra Leone. The looting spree followed the route of the retreat. It had already started on leaving Freetown, was declared in Masiaka, moved east to Makeni and then through various villages until Koidu Town.<sup>3233</sup> Various other crimes were committed

<sup>3226</sup> See further paras. 1142-1146 below on Operation Pay Yourself.

<sup>3227</sup> TF1-337, TT, 6 March 2008, pp. 5396-98.

<sup>3228</sup> TF1-334, TT, 17 April 2008, pp. 7933-35; TF1-375, TT, 23 June 2008, p. 12500; Exh. P-130, para. 27.

<sup>3229</sup> TF1-334, TT, 17 April 2008, p. 7934.

<sup>3230</sup> TF1-360, TT, 5 February 2008, pp. 3095-101.

<sup>3231</sup> TF1-360, TT, 5 February 2008, p. 3096.

<sup>3232</sup> TF1-360, TT, 5 February 2008, p. 3098. See also TF1-375, TT, 23 June 2008, p. 12500: this witness testified that the commanders were ordered to “tell their various boys to get something for themselves, because [they] were going in the bush to start a new life so everybody should pay himself. Operation Pay Yourself, everybody should get what [they] were able to get for [themselves].”

<sup>3233</sup> DCT-146, TT, 12 April 2010, pp. 38637-38: looting commenced in Freetown, occurred in Masiaka, Makeni, the Peninsula Road route, Fogbo and all the way to Koidu. See also [REDACTED]

[REDACTED] TF1-334, TT, 17 April 2008, p. 7934: this witness testified of a route “moving from Masiaka, to Makeni, to Lunsar”; TF1-584, TT, 18 June 2008, p. 12148: as this witness moved towards Makeni following the Intervention she saw RUF and SLA soldiers looting civilian property “[f]rom Gaya to Kabala, Kabala to Makeni”; TF1-360, TT, 5 February 2008, pp. 3098-101: three groups were to proceed from Makeni to Kono. The witness was part of the third group which moved from Makeni and went through Magburaka, Matotoka, Makali, Sewafe, Bumpe, before eventually reaching Koidu Town. As this group travelled, they looted civilians’ food. See also Exh. P-130, para. 27.

against civilians along the route, in particular killings, abductions, rape and burnings.<sup>3234</sup>

1145. Many witnesses also testified about the implementation of Operation Pay Yourself elsewhere in Sierra Leone following the Intervention. In synchrony with announcements made at Masiaka and Makeni, Sam Bockarie ordered Operation Pay Yourself in Kenema.<sup>3235</sup> Again this operation was carried out as part of a military strategy. Realising that Kenema could no longer be defended, Bockarie decided that “the best thing ... was to retreat to certain areas where [they] could reorganise ... to carry [out] further operations in Sierra Leone.”<sup>3236</sup> Bockarie, therefore, “gave instructions so that people would go in search of vehicles and ... other things that would be useful for future operations ... like vehicles, drugs, food, communication equipment.”<sup>3237</sup> Bockarie’s instructions were implemented<sup>3238</sup> and, indeed, Bockarie himself looted property.<sup>3239</sup>

1146. Operation Pay Yourself throws into sharp relief how looting was used both as an overarching military strategy as well as an opportunity for fighters to reward themselves in the midst of a conflict situation.

### **Port Loko District**

1147. Operation Pay Yourself was implemented with significant violence at various locations in Port Loko District including Masiaka between about 1 February 1998 and about 30 April 1998.<sup>3240</sup>

### **Masiaka**

1148. During a two day stay in Masiaka following the retreat from Freetown, [REDACTED]  
[REDACTED]<sup>3241</sup>

<sup>3234</sup> TF1-360, TT, 5 February 2008, p. 3101: this witness testified about lootings, abductions, burnings, rape and killings as his group moved from Makeni to Kono. See also TF1-174, TT, 27 January 2009, pp. 23672-74: this witness described looting and sexual offences in Makeni; TF1-375, TT, 23 June 2008, pp. 12501-02.

<sup>3235</sup> TF1-567, TT, 2 July 2008, pp. 12890-94: Operation Pay Yourself was implemented by the soldiers through looting vehicles and property from shops.

<sup>3236</sup> TF1-274, TT, 2 December 2008, pp. 21436-37.

<sup>3237</sup> TF1-274, TT, 2 December 2008, p. 21437.

<sup>3238</sup> TF1-274, TT, 2 December 2008, p. 21438. See also TF1-567, TT, 2 July 2008, p. 12893; Exh. P-178A (RUF Transcript of TF1-125, 12 May 2005), pp. 15339-41; Exh. P-173 (AFRC Transcript of TF1-122, 24 June 2005), pp. 15047-51; Exh. P-174 (RUF Transcript of TF1-122, 7 July 2005), pp. 15135-36; Exh. P-303, p. 21422.

<sup>3239</sup> TF1-045, TT, 13 November 2008, pp. 20167-71. Bockarie looted items from Mammy Saad.

<sup>3240</sup> Indictment, para. 30A.

<sup>3241</sup> [REDACTED]

This witness confirmed that, after the order that fighters should pay themselves was given, “the order was passed to everybody ... because everybody was taking and doing what he or she wanted to do.”<sup>3242</sup> Items taken by the AFRC/RUF fighters were food, property from people’s houses, motorcycles and bicycles.<sup>3243</sup> Defence Witness DCT-146 confirmed that looting took place in Masiaka.<sup>3244</sup>

#### **Other locations in Port Loko District**<sup>3245</sup>

1149. As the retreating forces travelled through Port Loko District, looting occurred at other locations in the District including Lunsar where the school and hospital were looted by RUF and SLA fighters and items such as fuel taken.<sup>3246</sup>

#### **Bombali District**

1150. Following the meeting of senior AFRC/RUF commanders in Makeni, the looting and other crimes which had begun in Masiaka as part of Operation Pay Yourself continued.<sup>3247</sup> Each soldier was now responsible for looking after himself and had permission to take from civilians whatever he wanted. Thus, from about 1 February 1998 until about 30 April 1998 looting occurred in various locations in Bombali District including Makeni.<sup>3248</sup>

#### **Makeni**

1151. At around 5 or 6 in the evening on 17 February 1998, what the people of Makeni later called the “17 day period” began.<sup>3249</sup> During this period, “[t]here was looting, there was harassment, knocking from houses, there was raping and everything was going on evil in Makeni.”<sup>3250</sup> “All houses were looted ... The mission was looted. The seminary was looted. The schools in Makeni, primary, secondary and even the college, were all looted. There was rampant looting all over.”<sup>3251</sup>

<sup>3242</sup> TF1-375, TT, 23 June 2008, p. 12501.

<sup>3243</sup> TF1-114, TT, 15 January 2008, p. 1231.

<sup>3244</sup> DCT-146, TT, 12 April 2010, p. 38637.

<sup>3245</sup> Although this town in Port Loko District was not specified in the Indictment, pleading the District is sufficiently and the evidence of looting at this location should be considered for guilt of the Accused (see Section IX.A above for relevant submissions on specificity).

<sup>3246</sup> TF1-334, TT, 17 April 2008, pp. 7936-37.

<sup>3247</sup> TF1-360, TT, 5 February 2008, pp. 3095-101.

<sup>3248</sup> Indictment, para. 30.

<sup>3249</sup> TF1-174, TT, 27 January 2009, pp. 23672-74.

<sup>3250</sup> TF1-174, TT, 27 January 2009, p. 23673; DCT-146, TT, 12 April 2010, p. 38637.

<sup>3251</sup> TF1-174, TT, 27 January 2009, p. 23674. This witness’ home was also looted as were the Bishop’s vehicles. See also Exh. P-303, p. 21422.

1152. Witness TF1-367 testified that upon arrival in Makeni he observed RUF, SLA and STF soldiers shouting “Operation Pay Yourself” in the streets.<sup>3252</sup> This witness joined the looting and collected food, clothing, vehicles, and “whatever [he] came across that could move.”<sup>3253</sup> Witness A.B. Sesay also looted in Makeni.<sup>3254</sup> This witness along with Hassan Papa Bangura and Bazzy Kamara stole money from the bank in Makeni.<sup>3255</sup> He also observed RUF and SLAs breaking into shops and taking food and other items.<sup>3256</sup> Senior commanders such as Issa Sesay, Bazzy Kamara and Superman were present in Makeni while the looting occurred.<sup>3257</sup> Those civilians who refused to give up their property were killed.<sup>3258</sup>

#### **Other locations in Bombali District**<sup>3259</sup>

1153. As the retreating forces travelled through Bombali District, looting occurred at other locations such as Karina. AFRC/RUF fighters hit this town in at least two separate waves, on each occasion taking at gun point people’s property such as cows and the wares of petty traders.<sup>3260</sup>

#### **Kono District**

1154. The looting which occurred in various locations in Kono District including Koidu, Tombodu or Tumbodu and Bumpe between about 1 February 1998 and about 31 December 1998<sup>3261</sup> marked the culmination of Operation Pay Yourself and, thereafter, the settlement of the District by AFRC/RUF forces. Looting also took place during the Indictment timeframe in the context of Kono being declared a “No Go Zone for Civilians.”<sup>3262</sup>

<sup>3252</sup> TF1-367, TT, 20 August 2008, p. 14137.

<sup>3253</sup> TF1-367, TT, 20 August 2008, pp. 14137-39.

<sup>3254</sup> TF1-334, TT, 17 April 2008, p. 7938.

<sup>3255</sup> TF1-334, TT, 17 April 2008, p. 7938.

<sup>3256</sup> TF1-334, TT, 17 April 2008, p. 7938.

<sup>3257</sup> TF1-334, TT, 17 April 2008, p. 7938.

<sup>3258</sup> TF1-375, TT, 23 June 2008, pp. 12501-02. This witness testified “Yes, some people resisted and when you put up a resistance you will be killed. ... every morning we found a lot of bodies in the street in Makeni ..., so we knew that they used to put up resistance for their properties.”

<sup>3259</sup> Although this town in Bombali District was not specified in the Indictment, pleading the District is sufficiently specific and the evidence of looting at this location should be considered for guilt of the Accused (see Section IX.A above for relevant submissions on specificity).

<sup>3260</sup> TF1-028, TT, 7 May 2008, pp. 9140-44.

<sup>3261</sup> Indictment, para. 29.

<sup>3262</sup> TF1-334, TT, 17 April 2008, pp. 7950-51. See also more generally para. 725 (Count 1) above.



## Koidu

1155. Following the Intervention, the forces retreating from Freetown moved across the country in separate groups.<sup>3263</sup> One of the first to reach Koidu Town comprised PLO-2, Gullit. At a muster parade at Lebanon in Koidu Town he ordered Operation Pay Yourself and the order was carried out.<sup>3264</sup>

1156. The crime base witnesses confirm this order's implementation. The first incidents of looting occurred in Koidu Town on receipt of the news of the Intervention.<sup>3265</sup> According to Sheku Bah Kuyateh, for approximately 3 days, "Juntas" started looting until they were stopped by local youth and Kamajors.<sup>3266</sup> The respite, however, was temporary. A successful attack on Koidu Town was led by Superman and involved AFRC and RUF commanders and fighters. During the attack, the fighters looted and burned.<sup>3267</sup> According to Kuyateh this attack occurred approximately two weeks after the first incidents. An armed group identified as RUF and comprising men who spoke pidgin English of the type heard spoken in Liberia, looted and burned houses in the town for two days as part of Operation Pay Yourself.<sup>3268</sup> This account is corroborated by Witness Gibril Sesay<sup>3269</sup> who also explained that his baling machines (worth 500,000 leones each) and furniture were taken by armed juntas and RUF rebels.<sup>3270</sup>

1157. In February 1998, the effects of Operation Pay Yourself were evident. Around Opera, by Kaikondo Road in Koidu Town, shops were open and empty as a result of looting. In the aftermath, the AFRC and the People's Army were heard to refer to Operation Pay Yourself.<sup>3271</sup> Defence evidence also confirms that looting occurred in Koidu.<sup>3272</sup>

1158. Before the AFRC/RUF forces burned Koidu Town to the ground, the Commercial Bank was broken into and all the money looted. While the details vary as to whether the raid

<sup>3263</sup> TF1-360, TT, 5 February 2008, pp. 3098-100.

<sup>3264</sup> TF1-516, TT, 8 April 2008, pp. 6851-52.

<sup>3265</sup> TF1-201, TT, 31 October 2008, pp. 19869-90.

<sup>3266</sup> *Ibid.*

<sup>3267</sup> TF1-375, TT, 23 June 2008, pp. 12504-05. This witness testified that the attack was led by Superman but involved AFRC commanders such as Gullit, Bazzy, honourable Adams and Savage.

<sup>3268</sup> TF1-201, TT, 31 October 2008, pp. 19692-94. This witness identified that the group was headed by Akim.

<sup>3269</sup> TF1-217, TT, 28 October 2008, pp. 19383-88. This witness recounted that in Koidu Town after the intervention, the Juntas and rebels stole people's property and took them away (p. 19383).

<sup>3270</sup> TF1-217, TT, 28 October 2008, pp. 19377-78.

<sup>3271</sup> TF1-065, TT, 24 September 2008, pp. 17060-62.

<sup>3272</sup> DCT-146, TT, 12 April 2010, p. 38638.

was carried out on the orders of Superman,<sup>3273</sup> the evidence is consistent that it was members of the AFRC/RUF who carried out the raid and that the money and diamonds taken were later taken to Sam Bockarie in Buedu.<sup>3274</sup> According to Witness Perry Kamara, this money was used by Bockarie to buy arms and ammunition from the Accused.<sup>3275</sup>

### **Tombodu or Tumbodu**

1159. In the period after the Intervention, the village of Tombodu or Tumbodu was attacked and looted by the AFRC/RUF on several occasions. On one occasion, men, some of whom wore uniforms, arrived at the village in vehicles at day break. Their gun fire caused the villagers to run away. When the villagers returned in the evening, they found their house doors broken, and one villager reported that the clothes he traded and other valuables were gone.<sup>3276</sup> Shortly after this incident, the same villager was attacked by the AFRC/RUF after he built a hut in the bush at Tombodu. After being beaten, Sahr Bindi, was forced to hand over cigarettes, money and a bicycle.<sup>3277</sup>

1160. When the AFRC/RUF forces eventually settled in Tombodu for a period in around March 1998, looted items forcibly taken from civilians in the surrounding area were brought there by abducted civilians.<sup>3278</sup> Indeed, Witness Mustapha Mansaray testified that he was informed by his colleagues in the Joint Security personnel about killings, amputations and the looting of civilians' goods in Kono District including at places such as Tombodu.<sup>3279</sup> No action, however, was taken against the perpetrators following receipt of such reports.<sup>3280</sup>

<sup>3273</sup> TF1-360, TT, 5 February 2008, pp. 3105-07. See also TF1-334, TT, 18 April 2008, p. 8017; TF1-334 testified that he along with Superman, Bazzy and Bomb Blast broke into the bank. Superman initially kept the money but later complied with Bockarie's order to send it to Buedu. See further TF1-367, TT, 20 August 2008, pp. 14141-44: according to this witness, the raid was carried out by SLA and STF men including Superman's bodyguards. These men were later arrested and punished on Superman's orders. Also see DCT-172, TT, 8 July 2010, p. 44058-59.

<sup>3274</sup> TF1-360, TT, 5 February 2008, pp. 3106-07; TF1-334, TT, 18 April 2008, p. 8017; TF1-367, TT, 20 August 2008, p. 14144; DCT-172, TT, 8 July 2010, pp. 44058-59; [REDACTED]

<sup>3275</sup> TF1-360, TT, 5 February 2008, p. 3107.

<sup>3276</sup> TF1-197, TT, 16 October 2008, pp. 18465-70.

<sup>3277</sup> TF1-197, TT, 16 October 2008, pp. 18471-79. See also Exh. P-199A (RUF Transcript of TF1-304, 12 January 2005), pp. 18896-99. This witness testified that Juntas arrived in Tombodu firing guns in March 1998. The witness was caught by Rambo who took the witness' belongings and placed them on the head of a rebel.

<sup>3278</sup> Exh. P-189 (AFRC Transcript of TF1-072, 1 July 2005), pp. 18441-47. In March 1998, this witness was forced to carry items to Tombodu. During the journey, items such as kola nuts, raw bananas and palm wine were taken from civilians by the soldiers. At Tombodu, the soldiers reported to Savage.

<sup>3279</sup> TF1-337, TT, 5 March 2008, pp. 5311-14.

<sup>3280</sup> TF1-337, TT, 5 March 2008, pp. 5313-14.

## Bumpe

1161. Bumpe (aka Bumpeh) was one of the villages in Kono through which the retreating AFRC/RUF fighters passed on their way to Koidu Town.<sup>3281</sup> Amongst the other crimes perpetrated in this village, looting also occurred.<sup>3282</sup>

## Other locations in Kono District<sup>3283</sup>

1162. The AFRC/RUF forces also committed acts of looting in several other locations in Kono District, within the time frame of the Indictment such as Tongbodou,<sup>3284</sup> Bomboa fluidu,<sup>3285</sup> Wordu,<sup>3286</sup> and the area around Superman Ground.<sup>3287</sup>

## Freetown and Western Area

1163. The looting which occurred between about 21 December 1998 and 28 February 1999 throughout Freetown and the Western Area took place in the context of the Freetown Invasion.<sup>3288</sup> During the weeks that the AFRC/RUF fighters remained in and around Freetown and the Western Area, looting was widespread<sup>3289</sup> and perpetrated in association with other crimes such as killing<sup>3290</sup> and burning.<sup>3291</sup> As Witness A.B. Sesay testified:

<sup>3281</sup> TF1-360, TT, 5 February 2008, pp. 3100-01.

<sup>3282</sup> Exh. P-198 (RUF Transcript of TF1-218, 1 February 2005), pp. 18876-87. After the rebels had been driven from Freetown, TF1-218 testified that an armed man dressed in a combat uniform took articles from witness' bag in her house in Bumpeh; the armed man was one of two men who came to the witness's house and said that they were rebels.

<sup>3283</sup> Although these locations in Kono District were not specified in the Indictment, pleading the District is sufficiently specific and the evidence of looting at these locations should be considered for guilt of the Accused. See Section IX.A above for relevant submissions on specificity.

<sup>3284</sup> TF1-065, TT, 24 September 2008, pp. 17083-86. Civilians were beaten and rice taken from them by the RUF in April 1998 (p. 17068).

<sup>3285</sup> Exh. P-202 (AFRC Transcript of TF1-206, 28 June 2005), pp. 19673-77. In April 1998, armed rebels (wearing combat, not Kamajors or ECOMOG and some of whom had Liberian accents) forced their way into the witness' house at Bomboafuidu by kicking down the door. The witness' watch and boots were taken. While captured, the witness saw many soldiers going into houses, bringing out clothes, tapes, shoes and anything of value.

<sup>3286</sup> TF1-210, TT, 30 October 2008, pp. 19592-98. On 12 April 1998 at Wordu, a mixed group of armed soldiers and rebels came, captured people and took their food, palm oil and rice.

<sup>3287</sup> TF1-303, TT, 29 January 2009, pp. 23871-72. This witness testified about food finding missions organised from Superman Ground. Rebels brought back clothing, tape recorders, radios, food items, and captured civilians from the missions.

<sup>3288</sup> Indictment, para. 31.

<sup>3289</sup> Exh. P-354A & B, see 00:35-02:22 of clip & transcript pp. 23623-24; [REDACTED]

<sup>3290</sup> TF1-334, TT, 23 April 2008, pp. 8347-50: during the Freetown Invasion, items were looted from civilians, and if they refused to hand over items they would die. The witness himself shot people who refused to hand over items. See also Exh. P-328, p. 23000; [REDACTED].

[We took] these [items] from civilians that we met in Freetown. They were the people we took the things from and, like I said, "From your pocket to my pocket," and if you refused you will die.<sup>3292</sup>

### **The advance to Freetown – Waterloo, Tombo, Benguema, Wellington**

1164. Around 22 to 23 December 1998, the fighters advancing towards Freetown captured Waterloo.<sup>3293</sup> On capturing the town, the fighters looted "logistics like rice and other things."<sup>3294</sup> This looting occurred in the presence of commanders such as SAJ Musa, Bazzy and Gullit.<sup>3295</sup> The village of Tombo was attacked from Waterloo in December 1998. Witness TF1-097 described the attack which included two men in combat taking the witness' tape recorder, money and bag else they would shoot him.<sup>3296</sup>

1165. The AFRC/RUF fighters then moved on to Benguema where there was a military training centre. The fighters continued to loot items at this location including ammunition.<sup>3297</sup> From Benguema, one group headed by O-Five and Gullit moved towards Freetown via Waterloo Junction using the highway.<sup>3298</sup> As this group advanced, houses were on fire and shops looted.<sup>3299</sup>

1166. In Wellington around 5 January 1999, rebels beat civilians forcing them to hand over money.<sup>3300</sup> The rebels returned on a subsequent occasion and took food.<sup>3301</sup>

### **State House**

1167. During their hold on the central areas of Freetown, the AFRC/RUF forces were based at State House, from where they conducted operations around the city.<sup>3302</sup> Along the route from Waterloo Street to State House, rebels burned people's houses and looted

<sup>3291</sup> TF1-334, TT, 23 April 2008, pp. 8347-50: the witness saw men ask civilians for money or threaten to burn their houses down. Sometimes even when the money was given, the civilian was told to go into the house again whereupon the door was locked and the house set on fire. See also TF1-227, TT, 27 October 2008, p. 19298.

<sup>3292</sup> TF1-334, TT, 23 April 2008, p. 8347.

<sup>3293</sup> TF1-334, TT, 22 April 2008, p. 8342; Exh. P-308, p. 21473: "On 22 December 1998, a (third) group of rebels attacked Waterloo on the road connecting Freetown with the rest of the country. The attack resulted in heavy casualties among civilians and the looting and destruction of property; thousands of people fled toward Freetown."

<sup>3294</sup> TF1-334, TT, 22 April 2008, pp. 8342-43.

<sup>3295</sup> TF1-334, TT, 22 April 2008, p. 8344.

<sup>3296</sup> TF1-097, TT, 16 October 2008, pp. 18560-62.

<sup>3297</sup> TF1-334, TT, 22 April 2008, p. 8344.

<sup>3298</sup> TF1-143, TT, 5 May 2008, pp. 9025-26. See also TF1-360, TT, 6 February 2008, p. 3224 for route taken.

<sup>3299</sup> TF1-143, TT, 5 May 2008, pp. 9025-26.

<sup>3300</sup> TF1-085, TT, 27 October 2008, pp. 19192-93 & 19238.

<sup>3301</sup> TF1-085, TT, 27 October 2008, p. 19193.

<sup>3302</sup> TF1-360, TT, 8 February 2008, p. 3227.

properties.<sup>3303</sup> On 6 January 1999 UN vehicles were stolen and taken to State House. These vehicles were then used by Gullit and other commanders.<sup>3304</sup>

### Kissy

1168. On 6 January 1999, rebels dressed in military dress beat civilians, set fire to houses and stole property.<sup>3305</sup> The rebels entered people's houses taking televisions, radios and whatever was valuable.<sup>3306</sup> One of the rebels called Akim told the people of Kissy that he would teach them a lesson and that he would "turn Kissy into a desert."<sup>3307</sup>

1169. At Rowe Street, rebels made civilians queue while they were searched for money and valuables.<sup>3308</sup> Mohamed Bah testified that he and seven civilians were searched and had items taken.<sup>3309</sup> The witness' hand was then amputated, the other seven civilians having been shot.<sup>3310</sup>

1170. Child soldiers also looted in Kissy on the orders of Adama Cut hand.<sup>3311</sup> Two men who tried to resist the "small boys" taking property from a shop were offered "short or long sleeve" by the "tailor," Adama Cut Hand, who amputated both men's hands.<sup>3312</sup>

1171. Civilian property was looted in Kissy later in the invasion<sup>3313</sup> including at Thunder Hill,<sup>3314</sup> at Rogbalan Mosque<sup>3315</sup> and at Crazy Yard.<sup>3316</sup>

### Withdrawal

1172. The retreat from Freetown was marked by wide scale looting as forces took what they could and used captured civilians to carry the goods.<sup>3317</sup> As the AFRC/RUF left State

<sup>3303</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), p. 20429. This was observed by the witness.

<sup>3304</sup> TF1-334, TT, 22 April 2008, p. 8291.

<sup>3305</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20594-96.

<sup>3306</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20594-96.

<sup>3307</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20594-96.

<sup>3308</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), p. 20597.

<sup>3309</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20598-99. The witness' wristwatch worth \$300 was taken along with \$200 by the commander called Tafaiko.

<sup>3310</sup> Exh. P-207 (AFRC Transcript of TF1-084, 6 April 2005), pp. 20598-99.

<sup>3311</sup> TF1-143, TT, 5 May 2008, pp. 9032-33.

<sup>3312</sup> TF1-143, TT, 5 May 2008, pp. 9032-33.

<sup>3313</sup> TF1-104 testified about looting in Kissy later in January 1999 ( [REDACTED] )

<sup>3314</sup> Exh. P-290A (AFRC Transcript of TF1-083, 8 April 2005), pp. 18775-79 & 18780-81: Around 22 January 1999, armed rebels in combat took money and other valuables from civilians including the witness. The witness' shirt, trousers and money were taken by another set of rebels later at Old Road.

<sup>3315</sup> Exh. P-287 (AFRC Transcript of TF1-021, 15 April 2005), pp. 18736-39: the witness saw armed rebels take 80,000 leones from civilians gathered in the mosque before they opened fire on the civilians.

<sup>3316</sup> TF1-278, TT, 30 January 2009, pp. 24001-05.

House they moved along Parliament Road, up Berry Street towards college, looting along the way.<sup>3318</sup> Items were looted from the Vice-President's office and a car was taken at Berry Street Junction.<sup>3319</sup> From Fourah Hill, rebels could be seen going in and out of houses on Kissy Road, loading things into a white Toyota Hilux vehicle then burning the houses.<sup>3320</sup>

1173. At Calaba Town, Witness TF1-023 testified that, after her hand had been amputated and she had been assaulted by two different groups of rebels, she was left lying helplessly in a gutter near the brewery. In this state, one of the assaulting rebels cut off a piece of cloth she had hidden in her clothing holding Le 50,000 and took the money.<sup>3321</sup> At Allen Town, Corporal Bastard took Witness Paul Conteh's wedding ring, some money, and then moved around the other rooms in the house taking things and making a bundle. This bundle was given to the witness to carry to the soldiers' base. The soldiers then set the house on fire.<sup>3322</sup> Once settled in Benguema following the retreat, children went on food finding missions and carried looted goods.<sup>3323</sup>

<sup>3317</sup> TF1-334, TT, 23 April 2008, pp. 8347-50: civilians were given loads to carry while forces withdrew from Freetown in January 1999. The loads contained things the fighters had looted when they came to Freetown. See also TF1-026, TT, 14 February 2008, pp. 3862-65; TF1-360, TT, 6 February 2008, p. 3252.

<sup>3318</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20435-36.

<sup>3319</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), p. 20436.

<sup>3320</sup> Exh. P-222 (AFRC Transcript of TF1-024, 7 March 2005), pp. 20516-17. Clothes were taken from this witness at Calaba Town (pp. 20469-70).

<sup>3321</sup> TF1-331, TT, 22 October 2008, pp. 19001-02.

<sup>3322</sup> Exh. P-215 (AFRC Trial Transcript of TF1-227, 8 April 2005), p. 20817.

<sup>3323</sup> TF1-334, TT, 23 April 2008, pp. 8376, 8391, 8395-96.

## X. CONSCIOUSNESS OF GUILT

1174. Taylor characterized the “Sierra Leonean matter” as “a monkey on my back.”<sup>3324</sup> The evidence demonstrates that he would do anything to shake that “monkey,” rather than have his control of it exposed. During and after the creation of the SCSL,<sup>3325</sup> the fear of prosecution prompted Taylor to execute allegedly treacherous subordinates. Additionally, journalists linking him to the AFRC/RUF were arrested, detained, threatened, and tortured. Next, after his indictment was released publicly in June 2003,<sup>3326</sup> the possibility of prosecution became a certainty. In turn, Taylor continued laying the groundwork for deception, reviewing his archives just before he left Liberia. He preserved only those documents he wanted for “future purposes.”<sup>3327</sup> Finally, before this Court, Taylor and his witnesses lied repeatedly on matters ranging from details to those central to proving guilt. This evidence of the Accused’s consciousness of guilt supports his conviction.<sup>3328</sup>

### X.A. EFFORTS TO SUPPRESS EVIDENCE

1175. Shortly after becoming President, Taylor repealed a decree restricting public expression.<sup>3329</sup> Meanwhile, Taylor launched his presidency with a press conference warning journalists not to publish anything that would undermine his government or tarnish his reputation.<sup>3330</sup> Thus, realistically, the repeal and Taylor’s accompanying assertions of freedom of speech were in “theory” only.<sup>3331</sup> Indeed, from the initial NPFL invasion, Taylor not only suppressed speech in areas under his control,<sup>3332</sup> but also eliminated those with inside knowledge whom he feared might betray him.<sup>3333</sup>

<sup>3324</sup> Accused, TT, 17 August 2009, p. 26910.

<sup>3325</sup> See Section X.A.

<sup>3326</sup> *Prosecutor v. Taylor*, SCSL-03-1-I-006, Order for the Disclosure of the Indictment, the Warrant of Arrest and Order for Transfer and Detention and the Decision Approving the Indictment and Order for Non-Disclosure, 12 June 2003, p. 2.

<sup>3327</sup> Accused, TT, 16 November 2009, p. 31692.

<sup>3328</sup> *Prosecutor v. Stakić*, IT-97-24-A, Appeal Judgement, 22 March 2006, paras. 210-212; *Prosecutor v. Vasiljević*, IT-98-32-A, Appeal Judgement, Separate and Dissenting Opinion of Judge Shahabuddeen, 25 February 2004, para. 24; Shahabuddeen noted that the Accused’s lies demonstrated his consciousness of guilt and may support a conviction so long as that conviction is not based *solely* on evidence of the Accused’s consciousness of guilt; see also Section I.K.

<sup>3329</sup> Accused, TT, 2 November 2009, p. 30909; TF1-355, TT, 13 January 2009, pp. 22410-11.

<sup>3330</sup> TF1-355, TT, 12 January 2009, pp. 22292-94.

<sup>3331</sup> TF1-355, TT, 13 January 2009, pp. 22410-11.

<sup>3332</sup> e.g. Accused, TT, 4 November 2009, p. 31170 and 8 September 2009, pp. 28270-71.

<sup>3333</sup> e.g. Accused, TT, 16 July 2009, pp. 24701-16 and 20 July 2009, p. 24841 and 22 July 2009, pp. 24976-78.

1176. As his presidency continued, Taylor's interest in suppression of potentially harmful information increased as his lies and deception were exposed. On 14 August 2000, the resolution initiating the SCSL was issued.<sup>3334</sup> Four months later, the Panel of Experts report finding "clear and convincing evidence" of Taylor's support for the RUF was published.<sup>3335</sup> Further, on 16 January 2002, the Agreement between the GoSL and the UN was signed, creating the SCSL. Finally, on 7 March 2003 the first seven indictments were issued against Bockarie, JPK, Sankoh, Sesay and others, followed by a request for Bockarie's extradition.<sup>3336</sup> The indictments against the former AFRC and RUF leaders referred to Taylor's involvement in the "common purpose."<sup>3337</sup> Accordingly, aware that he would probably face trial for crimes in Sierra Leone, Taylor ordered the arrest, torture or execution of anyone who might "betray" him, including those briefly discussed below. Ultimately, "one who rides on the back of a lion ends up in his stomach."<sup>3338</sup>

#### Killing of Subordinates Taylor Feared Might Betray Him

##### *Killing of Superman*

1177. Late in the rainy season of 2001, Taylor ordered the killing of Dennis Mingo aka Superman, a high-ranking member of the RUF,<sup>3339</sup> on suspicion that he was a traitor.<sup>3340</sup> In addition to ignoring Yeaten's orders,<sup>3341</sup> Superman allegedly gave information to the American Embassy,<sup>3342</sup> and/or connived with Lansana Conteh in Guinea.<sup>3343</sup> Accordingly, Superman – a liability – was eliminated.

1178. After Taylor's orders were issued, the plan was set in motion. [REDACTED]  
[REDACTED]<sup>3344</sup> and Yeaten, implementing Taylor's orders,

<sup>3334</sup> Exh. P-337.

<sup>3335</sup> Exh. P-18.

<sup>3336</sup> Exh. P-459; Exh. P-460. See also Accused, TT, 4 November 2009, pp. 31137-38: Taylor's lawyers looked into the SCSL.

<sup>3337</sup> *Prosecutor v. Sankoh*, SCSL-03-02-I-001A, Indictment, 7 March 2003, paras. 18-20, 26; *Prosecutor v. Bockarie*, SCSL-03-04-I, Indictment, 7 March 2003, paras. 19, 24; *Prosecutor v. Koroma*, SCSL-03-03-I, Indictment, 7 March 2003, para. 23.

<sup>3338</sup> Exh. P-487, p. 3.

<sup>3339</sup> TF1-028, TT, 7 May 2008, p. 9248; TF1-334, TT, 29 April 2008, p. 8789.

<sup>3340</sup> TF1-516, TT, 9 April 2008, pp. 7056, 7089-99.

<sup>3341</sup> TF1-516, TT, 9 April 2008, p. 7056.

<sup>3342</sup> [REDACTED]; TF1-375, TT, 24 June 2008, pp. 12667-77. See also TF1-276, TT, 23 January 2008, pp. 2063-66; TF1-516, TT, 9 April 2008, pp. 7096-99.

<sup>3343</sup> TF1-399, TT, 12 March 2008, pp. 5926-31.

<sup>3344</sup> [REDACTED].



set a trap resulting in his shooting and death.<sup>3345</sup> Superman's hand was then cut off: Taylor had specifically requested the juju ring on his little finger.<sup>3346</sup> Further, to prevent identification of the body, Marzah severed Superman's head.<sup>3347</sup> Marzah also took out Superman's heart, which he later ate at a ceremony where Yeaten gave him \$200, "secret money" from the Accused.<sup>3348</sup> In early 2002, Yeaten confessed to the killing of Superman to a close subordinate.<sup>3349</sup> [REDACTED]

[REDACTED]<sup>3350</sup> Taylor would eliminate any liability.

### *Killing of Sam Bockarie*

1179. After allegations of RUF presence in Taylor's security forces,<sup>3351</sup> [REDACTED]  
[REDACTED]<sup>3352</sup> Initial efforts at ensuring that he, Taylor, "would not be accused"<sup>3353</sup> [REDACTED]

[REDACTED]<sup>3354</sup> Nevertheless, the risk became more urgent in March 2003: the SCSL arrested Sesay and indicted Bockarie, requesting his extradition. Some two months later, Bockarie was dead on Taylor's orders.<sup>3355</sup>

1180. In the first days of May 2003, Bockarie and a few followers were lured into Liberia. After Bockarie was reunited with his wife and children, Yeaten acted on Taylor's orders and killed Bockarie, his family and some of his men on 6 May.<sup>3356</sup> Jungle was present and involved in the killings.<sup>3357</sup> [REDACTED]

[REDACTED]<sup>3358</sup>  
Radio announcements already broadcast Bockarie's arrival and planned arrest.<sup>3359</sup>

<sup>3345</sup> TF1-375, TT, 24 June 2008, pp. 12667-77; TF1-516, TT, 9 April 2008, pp. 7096-99; TF1-399, TT, 12 March 2008, p. 5929; DCT-102, TT, 5 November 2010, pp. 48898-900; DCT-215, TT, 30 March 2010, pp. 38324-25.

<sup>3346</sup> TF1-399, TT, 12 March 2008, pp. 5928, 5930; [REDACTED]; DCT-172, TT, 11 August 2010, p. 45951.

<sup>3347</sup> TF1-399, TT, 12 March 2008, p. 5930.

<sup>3348</sup> TF1-399, TT, 12 March 2008, pp. 5929-31; TF1-516, TT, 9 April 2008, p. 7099.

<sup>3349</sup> TF1-375, TT, 24 June 2008, p. 12674.

<sup>3350</sup> [REDACTED]

<sup>3351</sup> Accused, TT, 27 October 2009, pp. 30367-74.

<sup>3352</sup> [REDACTED]

<sup>3353</sup> Accused, TT, 27 October 2009, pp. 30367-74.

<sup>3354</sup> [REDACTED]

<sup>3355</sup> DCT-292, TT, 1 June 2010, pp. 41799-801.

<sup>3356</sup> TF1-585, TT, 9 September 2008, pp. 15768-72; TF1-388, TT, 16 July 2008, pp. 13862, 13864-65; DCT-102, TT, 5 November 2010, pp. 48892-94; Exh. D-46, p. 2.

<sup>3357</sup> TF1-579, TT, 6 November 2008, pp. 19989-90; [REDACTED]

<sup>3358</sup> [REDACTED]

<sup>3359</sup> Accused, TT, 27 October 2009, pp. 30361-67.

Moreover, after Bockarie's execution, most of Bockarie's followers were executed.<sup>3360</sup> Survivors were told they were "very lucky;"<sup>3361</sup> one even had to meet a "loyalty test" given by Yeaten.<sup>3362</sup> The groundwork for deception was laid.

1181. Bockarie's sister-in-law, however, survived to tell the story.<sup>3363</sup> Yeaten was also open with the story to his close subordinates,<sup>3364</sup> [REDACTED]  
[REDACTED].<sup>3365</sup> Even though he loved Bockarie like a son<sup>3366</sup> and Bockarie had been of great use to Taylor, he had to be eliminated, as Taylor was more concerned that Bockarie might expose his criminal conduct vis-à-vis the RUF and AFRC/RUF.

### *Killing of Johnny Paul Koroma*

1182. After Bockarie was killed in May 2003, his AFRC counterpart, JPK, entered Liberia seeking asylum and faced the same fate.<sup>3367</sup> As AFRC Chairman, directly subordinate to and involved with the Accused during and after the junta period, JPK was in a position to "betray" Taylor, just as Superman and Bockarie were before.

1183. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>3368</sup> With confirmation of JPK's presence, Taylor passed execution orders,<sup>3369</sup> identifying JPK as a "betrayed."<sup>3370</sup> Roland Duoh, chief of staff of the Navy Division, then passed on the execution order.<sup>3371</sup> Radio operators passed on news of the killings.<sup>3372</sup> [REDACTED]  
[REDACTED].<sup>3373</sup> [REDACTED].

<sup>3360</sup> [REDACTED]; TF1-585, TT, 9 September 2008, p. 15773.

<sup>3361</sup> TF1-579, TT, 26 November 2008, p. 21192; TF1-585, TT, 9 September 2008, p. 15769.

<sup>3362</sup> TF1-579, TT, 6 November 2008, p. 19995.

<sup>3363</sup> TF1-367, TT, 21 August 2008, pp. 14264-65.

<sup>3364</sup> TF1-561, TT, 15 May 2008, pp. 9986-90.

<sup>3365</sup> [REDACTED].

<sup>3366</sup> Accused, TT, 26 October 2009, pp. 30219-21 and 26 November 2009, p. 32541.

<sup>3367</sup> TF1-561, TT, 15 May 2008, pp. 9998-10000.

<sup>3368</sup> TF1-561, TT, 15 May 2008, pp. 9998-10000; [REDACTED].

<sup>3369</sup> TF1-399, TT, 12 March 2008, pp. 5935-37.

<sup>3370</sup> TF1-399, TT, 12 March 2008, pp. 5935-37.

<sup>3371</sup> [REDACTED]; TF1-561, TT, 15 May 2008, pp. 9998-10000; see also TF1-399, TT, 12 March 2008, pp. 5935-37.

<sup>3372</sup> TF1-561, TT, 15 May 2008, pp. 9998-10000.

<sup>3373</sup> [REDACTED].

*Killing of Jungle*

1184. The loyalty of Daniel Tamba aka Colonel Jungle, a senior security officer and key link between Taylor and the RUF,<sup>3374</sup> was called into question in late 2003. Thus, afraid of exposure, Taylor ordered Jungle's death.<sup>3375</sup> During a LURD attack on Ganta, Jungle was intentionally killed by his own men.<sup>3376</sup> [REDACTED]  
[REDACTED].<sup>3377</sup> The trigger-man was never punished—instead, despite complaints from Jungle's men, Yeaten defended the actions of his personal bodyguard.<sup>3378</sup> Just as Bockarie was killed to hide Taylor's incriminating connections,<sup>3379</sup> Jungle was killed not only to hide his link to the AFRC/RUF, but also to hide Taylor's connection to Sam Bockarie's death, in which Jungle played a key role.<sup>3380</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>3381</sup>

Torture and Intimidation of Journalists Taylor Feared Might Expose Him*Sorious Samura and Others*

1185. When Sorious Samura – whose prior work attracted world wide attention to the 1999 attack on Freetown<sup>3382</sup> – turned his camera on Liberia, Taylor and his government arrested, charged and indicted Samura and other journalists in August 2000.<sup>3383</sup> Taylor excused the arrests, citing a deadly motive: the journalists' camera "contained some beam or something that fired at me would, over a period of time, lead to cancer."<sup>3384</sup>

1186. The journalists faced a "hellish existence" in Liberian prison.<sup>3385</sup> Contrary to Taylor's claim that Samura would agree that he was not mistreated,<sup>3386</sup> Samura reported at a news conference that prison officers, while brandishing a knife, threatened to kill him

<sup>3374</sup> TF1-375, TT, 23 June 2008, pp. 12487-92; [REDACTED]; TF1-388, TT, 16 July 2008, pp. 13821-22; TF1-367, TT, 29 August 2008, pp. 14949.

<sup>3375</sup> [REDACTED]; TF1-388, TT, 14 July 2008, pp. 13581-82.

<sup>3376</sup> TF1-579, TT, 6 November 2008, pp. 19999-01; TF1-388, TT, 14 July 2008, pp. 13581-82; TF1-399, TT, 12 March 2008, p. 5931-35.

<sup>3377</sup> [REDACTED]; DCT-008, TT, 30 August 2010, pp. 47510-11.

<sup>3378</sup> TF1-388, TT, 14 July 2008, pp. 13581-82; DCT-215, TT, 31 March 2010, pp. 38369-70; TF1-399, TT, 12 March 2008, pp. 5931-35.

<sup>3379</sup> TF1-388, TT, 14 July 2008, pp. 13576-79.

<sup>3380</sup> TF1-579, TT, 6 November 2008, pp. 19989-90; [REDACTED].

<sup>3381</sup> [REDACTED].

<sup>3382</sup> Ellis, TT, 17 January 2008, p. 1481.

<sup>3383</sup> Exh. D-302, para. 22; Exh. D-307, p. 17.

<sup>3384</sup> Accused, TT, 27 August 2009, p. 27906; Exh. D-307, pp. 17-19.

<sup>3385</sup> Exh. P-481, p. 1.

<sup>3386</sup> Accused, TT, 18 November 2009, pp. 32097-98.

and “split his heart open.”<sup>3387</sup> These threats worked: the four journalists, in the presence of two ambassadors and an international lawyer, promised to discontinue the project which threatened to expose the truth behind accusations that Taylor and GoL were involved in diamond smuggling, gun-running, and support to the RUF.<sup>3388</sup>

*Hassan Bility (TF1-355)*

1187. Hassan Bility, a prominent Liberian journalist and Amnesty International consultant,<sup>3389</sup> repeatedly exposed Taylor’s links to the AFRC/RUF. Taylor admitted, he was not about “to let [Bility] get away so easily” with his reports.<sup>3390</sup> Thus, over the course of seven arrests between 1997 and December 2002, Bility was regularly threatened with death, beaten until he bled from the ears, thrown down stairs, and tie-bayed. Further, he was detained in more than 13 locations including a toilet with faeces and maggots, and, reminiscent of the pits TF1-590 was held in at Gbatala, a cell half-filled with water while his genitals were electrocuted.<sup>3391</sup>

1188. To justify his detentions, Bility was variously accused of being a spy, traitor, enemy combatant, leak, and communist.<sup>3392</sup> Each arrest, however, followed disclosure of information pertaining to Liberian support for the RUF and anything else that would undermine Taylor’s efforts at public deception.<sup>3393</sup> After six arrests, beatings, and many threats,<sup>3394</sup> Taylor thought that Bility would be “scared straight.”<sup>3395</sup> He wasn’t. In support of his seventh and final arrest, GoL manipulated and created the evidence it needed. For example, GoL seized Bility’s computers<sup>3396</sup> allowing GoL to create the emails allegedly linking Bility to LURD, the western conspiracy, and an assassination plot against Taylor.<sup>3397</sup> Moreover, the only Defence witness linking Bility to LURD,

<sup>3387</sup> Exh. P-481, p. 1.

<sup>3388</sup> Exh. D-302, EM/2, p. 52; Exh. D-307, p. 18.

<sup>3389</sup> TF1-355, TT, 12 January 2009, pp. 22286-87, 22345-48.

<sup>3390</sup> Accused, TT, 2 November 2009, p. 30923-24.

<sup>3391</sup> TF1-355, TT, 12 January 2009, pp. 22295-304, 22310-28, 22328-32, 22332-44, 22348-55, 22355-68, 22368-81 and 13 January 2009, pp. 22384-91, 22391-400. See also TF1-590, TT, 13 June 2008, pp. 11790-93.

<sup>3392</sup> TF1-355, TT, 12 January 2009, pp. 22332-44, 22355-68, 22368-81.

<sup>3393</sup> Accused, TT, 3 November 2009, p. 30949.

<sup>3394</sup> TF1-355, TT, 12 January 2009, pp. 22332-48.

<sup>3395</sup> Accused, TT, 2 November 2009, p. 30918.

<sup>3396</sup> Accused, TT, 26 January 2010, p. 34184. See also TF1-355, TT, 13 January 2009, pp. 22384-91 and 12 January 2009, pp. 22355-68.

<sup>3397</sup> Exh. D-81 A-F; TF1-355, TT, 19 January 2009, pp. 22887-88.

DCT-190, claimed that Bility was reporting to LURD from Monrovia in June 2003. By December 2002, however, Bility was in the US.<sup>3398</sup>

## **X.B. LIAR**

### *Introduction*

1189. In seven months of testimony, Charles Taylor proved himself to be intelligent, charismatic, and quick-thinking. He displayed a wide knowledge of international, regional and Liberian national history and his testimony was well-organized. Honesty, however, was notably absent from Taylor's testimony. On numerous occasions, on matters ranging from details to matters central to the charges, Taylor intentionally lied under oath. His testimony was incredible: much of what he said was contradicted by his own evidence, prosecution witnesses, and even his own defence witnesses and documentary evidence.

1190. When examined in light of all the evidence, it is clear that Taylor did not lie without reason. Instead, he perjured himself, repeatedly attempting to conceal his central role in the creation and crimes of the RUF and AFRC/RUF. After all, as the Accused explained, "in diplomacy, deception is a tool."<sup>3399</sup> Presidents are two-faced<sup>3400</sup> and all "draw smoke"<sup>3401</sup> making false statements.<sup>3402</sup> A trial, however, is not the same as a press conference, nor is it the political arena. The more Taylor and his witnesses talked, bit by bit, the lies fell apart and the truth emerged. After all, as the Accused admitted, "that's what you do when you're lying, you get things mixed up."<sup>3403</sup> This section discusses some of the many lies in Taylor's testimony.

### *Never had a bank account in my name with \$100,000*

1191. Claiming that he was not reaping personal benefits from his alleged relationship with the AFRC/RUF, Taylor challenged "if any human on this planet earth goes to any bank anywhere in the world and brings one bank account of \$100,000 belonging to Charles Taylor, I said I will resign the office of the President."<sup>3404</sup> He pointed out that ten years

<sup>3398</sup> DCT-190, TT, 25 June 2010, p. 43526.

<sup>3399</sup> Accused, TT, 15 September 2009, p. 28949.

<sup>3400</sup> Accused, TT, 5 August 2009, pp. 26124-25.

<sup>3401</sup> Accused, TT, 14 July 2009, p. 24335.

<sup>3402</sup> Accused, TT, 17 August 2009, pp. 26950-51.

<sup>3403</sup> Accused, TT, 6 August 2009, p. 26214: Refuting the testimony of TF1-334, Taylor made this comment after he confused the dates of the Intervention and the Camp Johnson Road incident in Monrovia.

<sup>3404</sup> Accused, TT, 3 August 2009, p. 25847.

later the challenge had not yet been met<sup>3405</sup> and renewed his challenge to the Prosecutor to “bring any evidence from any financial institution.”<sup>3406</sup> To Taylor’s chagrin, records, now in evidence, were tendered showing that he had a “Personal Checking Account” at LBDI. Between December 1999 and April 2001, \$14,492,268.93 was deposited into this account.<sup>3407</sup> Caught in his lie, Taylor tried a new deception claiming that it was a covert account of public funds. He could give no explanation, however, why this “covert” GoL account was in his – *the Liberian President’s* – name.<sup>3408</sup>

#### *Why Taylor did not Participate in Quiwonkpa Coup*

1192. In inventing his heroic autobiography, Taylor claimed that he was a strong supporter of Thomas Quiwonkpa. Unfortunately, Taylor explained he was unable to participate in Quiwonkpa’s coup as he had only escaped from prison a couple days earlier and was still in New York at the time.<sup>3409</sup> Yet, the truth is that Taylor escaped from jail on 15 September 1985<sup>3410</sup> and the Quiwonkpa coup took place almost two months later on 12 November 1985.<sup>3411</sup> In fact, Taylor’s attorney, Ramsey Clark, refutes Taylor’s testimony, reporting that Taylor was in West Africa within months of his escape, assisting General Quiwonkpa in a “major military effort to overthrow Doe.”<sup>3412</sup> Taylor did not accept the accuracy of the report, claiming that he would get an affidavit from Clark confirming that he would not lie about his location at the time of the coup,<sup>3413</sup> although no affidavit was ever produced.

#### *Diamonds*

1193. Although Taylor claimed to have been the “point president for peace” in Sierra Leone, he was so desperate to distance himself from allegations of his involvement in the diamond trade that he claimed not to know the strategic diamond areas in Sierra Leone.<sup>3414</sup> Indeed, Taylor claimed to have never heard of Koidu as the diamond capital of Sierra Leone<sup>3415</sup> or the significance of Kono.<sup>3416</sup> Nonetheless, in one of his defence

<sup>3405</sup> Accused, TT, 3 August 2009, p. 25847.

<sup>3406</sup> Accused, TT, 3 August 2009, p. 25848 and 2 December 2009, p. 32905.

<sup>3407</sup> Accused, TT, 7 December 2009, pp. 33039-81 (referring to Exhs. P-402 through P-411).

<sup>3408</sup> Accused, TT, 7 December 2009, p. 33052.

<sup>3409</sup> Accused, TT, 11 January 2010, p. 33127.

<sup>3410</sup> Accused, TT, 11 January 2010, p. 33129.

<sup>3411</sup> Exh. P-412A, p. 1; Accused, TT, 16 November 2009, p. 31677.

<sup>3412</sup> Accused, TT, 11 January 2010, pp. 33128-49.

<sup>3413</sup> Accused, TT, 11 January 2010, p. 33131.

<sup>3414</sup> Accused, TT, 5 August 2009, p. 26051.

<sup>3415</sup> Accused, TT, 25 November 2009, p. 32413.

<sup>3416</sup> Accused, TT, 25 November 2009, p. 32460.

exhibits, GoL argued that the Sierra Leone government controlled diamond producing areas along the Sewa River in the southern and eastern provinces.<sup>3417</sup> GoL was, in fact, receiving reports of activity in the Sierra Leonean diamond areas.<sup>3418</sup>

#### *Radio Shy*

1194. Taylor claimed that he never talked to Sankoh on the radio,<sup>3419</sup> but knew that Sankoh's code name was Toyota.<sup>3420</sup> Further, Taylor testified that it was "total nonsense" that anyone heard his voice on the military radio – anyone who said so was a liar.<sup>3421</sup> But Taylor's witness and NPFL commander Teman Edward Zaymay testified that he heard Taylor's voice on the radio. The witness heard Taylor speaking on radio to ECOMOG<sup>3422</sup> and the witness himself spoke with Taylor "one to one:" "we had direct contact on the radio."<sup>3423</sup>

#### *Contacts with the RUF after Top Final*

1195. Taylor claimed that he had no contact with the RUF from Top Final in 1992 until August 1998.<sup>3424</sup> Contrarily, Defence witness Musa Fayia testified that Taylor, in 1995, invited the RUF to Gbarnga, took them to Accra, and gave an RUF delegation money after the launch of Footpaths for Democracy.<sup>3425</sup> Taylor specifically denied having contact with the RUF in 1995 or even knowing about the book "Footpaths to Democracy" before it was disclosed to the Defence.<sup>3426</sup>

#### *Threatening the Bitterness of War*

1196. Taylor claimed that "there is no human being on this planet that heard in these words that Sierra Leone would taste the bitterness of war. It's a fabrication."<sup>3427</sup> Three of his own witnesses contradicted him as DCT-068 testified he "heard it over the radio,"<sup>3428</sup> DCT-172 "heard it,"<sup>3429</sup> and DCT-292 heard about it from others.<sup>3430</sup>

<sup>3417</sup> Exh. D-302, para. 32.

<sup>3418</sup> Accused, TT, 26 August 2009, p. 27761.

<sup>3419</sup> Accused, TT, 16 September 2009, pp. 28995-96.

<sup>3420</sup> Accused, TT, 16 September 2009, p. 28992.

<sup>3421</sup> Accused, TT, 28 October 2009, p. 30496.

<sup>3422</sup> DCT-226, TT, 17 May 2010, p. 40951.

<sup>3423</sup> DCT-226, TT, 17 May 2010, pp. 41003-04.

<sup>3424</sup> e.g. Accused, TT, 1 October 2009, p. 30051 and 6 August 2009, pp. 26209-10.

<sup>3425</sup> DCT-306, TT, 14 April 2010, pp. 39000-01 and 9 April 2010, p. 39036.

<sup>3426</sup> Accused, TT, 7 September 2009, pp. 28187-88.

<sup>3427</sup> Accused, TT, 20 July 2009, p. 24736.

<sup>3428</sup> DCT-068, TT, 11 March 2010, p. 37082.

<sup>3429</sup> DCT-172, TT, 17 August 2010, p. 46454.

<sup>3430</sup> DCT-292, TT, 2 June 2010, p. 41897.

*Calls that Never Happened*

1197. In support of his claim to be a neutral arbiter of peace in Sierra Leone, Taylor repeatedly referred to regular communications with President Kabbah,<sup>3431</sup> including the setting up of a hotline to facilitate communication.<sup>3432</sup> When reports of problems with Lomé implementation reached Taylor, Taylor claimed that “the usual thing is for telephone messages to begin to fly.”<sup>3433</sup> He claimed he was receiving reports of AFRC/RUF infighting from Kabbah by phone.<sup>3434</sup> No telephone calls, however, were “flying” between Kabbah and Taylor at the time: Kabbah wrote a letter to Taylor in October 1999 noting that writing was his last resort as he was unable to reach Taylor by telephone.<sup>3435</sup>

*Who’s My Ambassador Sanjivan Ruprah?*

1198. Taylor denied knowing Ruprah,<sup>3436</sup> could not explain who he was,<sup>3437</sup> and was reported as saying he “had never heard of Sanjivan Ruprah.”<sup>3438</sup> This was the same Ruprah Taylor admitted was doing “special work” for the Liberian maritime commission,<sup>3439</sup> was given a diplomatic passport approved by Taylor,<sup>3440</sup> received a transfer of \$548,000 from Taylor,<sup>3441</sup> and was appointed as a Liberian ambassador-at-large.<sup>3442</sup>

*Me Ask Leonid Minin for Arms?*

1199. When confronted with evidence of Taylor’s arms deals with Leonid Minin, Taylor denied knowing Minin was an arms dealer and denied having ever asked Minin to get him any weapons.<sup>3443</sup> Taylor forgot that he was previously asked by his own counsel, “did you do any arms deals with Mr. Minin, Mr. Taylor?” Taylor answered, “yes, we tried to get some arms, but he failed. He couldn’t get them.”<sup>3444</sup>

<sup>3431</sup> Accused, TT, 9 September 2009, p. 28420.

<sup>3432</sup> Accused, TT, 12 August 2009, p. 26662 and 16 November 2009, p. 31653.

<sup>3433</sup> Accused, TT, 17 August 2009, p. 26836.

<sup>3434</sup> Accused, TT, 17 August 2009, p. 26838.

<sup>3435</sup> Exh. D-77, para. 1.

<sup>3436</sup> Accused, TT, 25 August 2009, p. 27685.

<sup>3437</sup> Accused, TT, 9 November 2009, p. 31460.

<sup>3438</sup> Accused, TT, 25 August 2009, p. 27633 (reading from Exh. P-19, p. 0003086).

<sup>3439</sup> Accused, TT, 20 January 2010, pp. 33838-39.

<sup>3440</sup> Accused, TT, 20 January 2010, pp. 33838-39 and 28 January 2010, pp. 34434-35.

<sup>3441</sup> Accused, TT, 27 January 2010, pp. 34231-35.

<sup>3442</sup> Accused, TT, 27 January 2010, pp. 34245-50.

<sup>3443</sup> Accused, TT, 25 August 2009, p. 27669.

<sup>3444</sup> Accused, TT, 27 January 2010, p. 34272.



*Border Games*

1200. In an attempt to provide diplomatic cover and plausible deniability for his relationship with the AFRC/RUF, Taylor made public pronouncements about closing the border between Sierra Leone and Liberia.<sup>3445</sup> Taylor wanted it to appear to the international and regional communities that the border was closed. It was only closed to those Taylor did not wish to enter, not his surrogate army, the AFRC/RUF. By positioning his subordinates at the border he was able to protect that area against any attempted interference with the safe passage of materiel he was sending to the AFRC/RUF in Sierra Leone, to more quickly respond to any rebel needs, and to provide a reinforced retreat route for the rebel forces.<sup>3446</sup> Accordingly, when the UN called Taylor's bluff and requested that Taylor's government provide details regarding its disingenuous request for patrols along the border,<sup>3447</sup> the Government of Liberia clarified that the deployment was unnecessary.<sup>3448</sup>

*Where's Bockarie?*

1201. Taylor admitted that he brought Sam Bockarie to Liberia in September 1998.<sup>3449</sup> Nevertheless, Taylor contradicted himself regarding when he first met with Bockarie testifying once that it was Liberian Mosquito who brought Bockarie at the end of 1997, early 1998<sup>3450</sup> and later that Menkarzon brought Bockarie in September 1998.<sup>3451</sup> He claimed that the trips were publicized, that Kabbah was aware, that ECOWAS approved, and that a travel ban waiver was obtained for Bockarie's visit.<sup>3452</sup> Nevertheless, none of the documents during the relevant time period, including those listing AFRC/RUF travel ban exemptions, mentioned Bockarie.<sup>3453</sup>

1202. When questioned as to why Musa Cisse accompanied Sam Bockarie to Burkina Faso in November 1998, Taylor claimed he was sent as a translator.<sup>3454</sup> Taylor denied he knew that members of Bockarie's entourage, such as Eddie Kanneh, also spoke French.<sup>3455</sup>

<sup>3445</sup> Accused, TT, 7 September 2009, pp. 28234-36; Exh. D-341; TF1-561, TT, 20 May 2008, pp. 10314-17.

<sup>3446</sup> Accused, TT, 5 August 2009, pp. 26115-6; Exh. D-141, p. 289. See also TF1-045, TT, 17 November 2008, pp. 20441-42; TF1-577, TT, 6 June 2008, pp. 11204-07, 11224-25.

<sup>3447</sup> Exhs. D-235, pp. 1, 3; D-236 A; D-236 B.

<sup>3448</sup> Exh. D-239 C, para. 1.

<sup>3449</sup> e.g. Accused, TT, 15 September 2009, pp. 28858-62.

<sup>3450</sup> Accused, TT, 14 July 2009, pp. 24336-38.

<sup>3451</sup> Accused, TT, 15 September 2009, pp. 28859-60.

<sup>3452</sup> Accused, TT, 25 November 2009, pp. 32432-36.

<sup>3453</sup> Exh. P-484, para. 8; Exh. P-323, para. 9; Exh. P-485, paras. 10, 14.

<sup>3454</sup> Accused, TT, 16 November 2009, pp. 31748-9 and 25 November 2009, p. 32505.

<sup>3455</sup> Accused, TT, 25 November 2009, pp. 32489-90.

He even acknowledged that it was protocol for provision of translators by a host country.<sup>3456</sup> Thus, as a translator, Musa Cisse in fact was unnecessary.

1203. Taylor also tried to rewrite the story of Bockarie's "extraction" to Liberia in December 1999. First, he claimed to have met with Sankoh and Obasanjo before Bockarie came to Liberia.<sup>3457</sup> Sesay, however, claimed the meeting took place after Bockarie arrived.<sup>3458</sup> Next, while Taylor claimed that he never asked that Bockarie be taken back by the RUF,<sup>3459</sup> Sesay and DCT-292 both testified that he did.<sup>3460</sup> Further, Taylor couldn't even decide if Bockarie was given a salary, sometimes testifying that Bockarie was given a salary,<sup>3461</sup> at another point insisting that he was given a "subsistence."<sup>3462</sup> Finally, unable to deny his support for Bockarie, Taylor characterized him as one of "good moral background."<sup>3463</sup> Defence witnesses disagreed, one describing Bockarie as a devil.<sup>3464</sup>

1204. Moreover, Taylor denied that Musa Cisse escorted Bockarie from Liberia to Zambia, claiming that he did not know what happened after Bockarie's "expulsion."<sup>3465</sup> This ignorance despite Taylor's prior testimony that Bockarie was observed constantly while in Liberia to ensure that "there was no mischief [and so] the government would have an account."<sup>3466</sup> A government account of Bockarie's departure would have been most useful considering that "the UN didn't believe he had left, and I spent months convincing them."<sup>3467</sup> Yet, Taylor supposedly did not know the day or time of Bockarie's departure from Liberia,<sup>3468</sup> the name on the Liberian travel document Bockarie was using since 1998,<sup>3469</sup> or even who escorted Bockarie to the Ivorian border.<sup>3470</sup> Refuting evidence of Bockarie's travels to Zambia with Cisse in early February 2001, Taylor claimed that he saw Cisse nearly every day and would have

<sup>3456</sup> Accused, TT, 25 November 2009, p. 32492.

<sup>3457</sup> Accused, TT, 5 February 2010, p. 34849.

<sup>3458</sup> DCT-172, TT, 14 July 2010, p. 44469.

<sup>3459</sup> Accused, TT, 19 August 2009, pp. 27192-93.

<sup>3460</sup> DCT-292, TT, 12 August 2010, pp. 46143-44; DCT-172, TT, 26 August 2010, p. 47198.

<sup>3461</sup> Accused, TT, 17 August 2009, p. 26923 and 24 September 2009, p. 29630.

<sup>3462</sup> Accused, TT, 26 November 2009, p. 32572.

<sup>3463</sup> Accused, TT, 2 December 2009, p. 32899.

<sup>3464</sup> DCT-306, TT, 19 April 2010, p. 29278.

<sup>3465</sup> Accused, TT, 27 August 2009, pp. 27916-17.

<sup>3466</sup> Accused, TT, 10 October 2009, p. 30659. See also Exh. D-232, para. 5.

<sup>3467</sup> Accused, TT, 19 November 2009, p. 32200.

<sup>3468</sup> Accused, TT, 19 November 2009, p. 30654.

<sup>3469</sup> Accused, TT, 19 November 2009, p. 32205.

<sup>3470</sup> Accused, TT, 29 October 2009, p. 30658.

known – of this he was 100% certain – if Cisse travelled to Zambia.<sup>3471</sup> The Prosecution account was nothing but a “James Bond story.”<sup>3472</sup> Fortunately, stamps on Musa Cisse’s passport, now in evidence, proved that Taylor’s Chief of Protocol was out of Liberia travelling to and from the Zambia for at least six days at the beginning of February 2001,<sup>3473</sup> [REDACTED].<sup>3474</sup> Taylor maintained that Musa Cisse could not be out of the country for six days without at least his knowledge, if not on his orders or by his consent.<sup>3475</sup>

*I Never Met My Good Friend Savimbi*

1205. Further contesting this Prosecution evidence that Taylor arranged for Bockarie to meet up in Zambia with Savimbi’s ambassador,<sup>3476</sup> however, Taylor denied that he himself ever met Savimbi.<sup>3477</sup> - “never in my life met Jonas Savimbi. Never met him.”<sup>3478</sup> Taylor forgot his previous sworn testimony that he was “very good friends” with Savimbi when they were both in Ivory Coast.<sup>3479</sup>

1206. Finally, Taylor of course denied that he ordered the killing of Sam Bockarie, trying to convince the judges that Bockarie was killed during an attempted arrest. In order to hide his true motive, Taylor claimed, incredibly, that he was unaware of the arrest warrant for Bockarie announced by the Special Court on 11 March 2003, only a day after several indictments were issued and arrests made of AFRC and RUF commanders.<sup>3480</sup> When pressed on the killing of Bockarie, Taylor said he met with his National Security Staff one time,<sup>3481</sup> despite previous testimony that there were “frequent” meetings.<sup>3482</sup> Also, Taylor could not reconcile his cover-up story relating to Bockarie’s death with the killing of Bockarie’s wife, mother, or children.<sup>3483</sup> In fact,

<sup>3471</sup> Accused, TT, 29 October 2009, p. 30667.

<sup>3472</sup> Accused, TT, 29 October 2009, p. 30672.

<sup>3473</sup> Exh. P-486, pp. 8-9; referred to at Accused, TT, 28 January 2010, pp. 34369-72.

<sup>3474</sup> [REDACTED].

<sup>3475</sup> Accused, TT, 28 January 2010, pp. 34372-73.

<sup>3476</sup> Accused, TT, 29 October 2009, pp. 30666-67 [REDACTED].

<sup>3477</sup> Accused, TT, 28 January 2010, pp. 34363, 34377.

<sup>3478</sup> Accused, TT, 28 January 2010, p. 34378.

<sup>3479</sup> Accused, TT, 24 August 2009, p. 27484.

<sup>3480</sup> Accused, TT, 28 January 2010, pp. 34406-98. See also Exhs. P-459 and P-460.

<sup>3481</sup> Accused, TT, 28 January 2010, p. 34409.

<sup>3482</sup> Accused, TT, 4 November 2009, pp. 31142-43.

<sup>3483</sup> Accused, TT, 28 January 2010, pp. 34349-50.

Taylor did not even send condolences to Hawa Bockarie<sup>3484</sup> because he knew she was killed on his orders.

### *Forgotten Friend*

1207. Taylor “state[d] categorically” that he did not know or meet Foday Sankoh in Libya or meet him anywhere until August 1991<sup>3485</sup> – he was being 100% truthful.<sup>3486</sup> Sankoh told Issa Sesay, however, that he met and knew Taylor in Libya.<sup>3487</sup> Further, Taylor himself did an interview with Mary Harper where he said “it is known by everyone that I have been friendly with Foday Sankoh for many years, before the revolution.” When confronted with the contradiction from his BBC interview, Taylor tried to twist his words, arguing that everyone knew at the time it was not true.<sup>3488</sup> In an effort to further distance himself from Sankoh, Taylor also denied that Sankoh was ever based in Gbarnga, claiming he would only visit for a couple days at a time.<sup>3489</sup> Nevertheless, Taylor admitted that Sankoh was provided his own guesthouse, jeep, and security in Gbarnga.<sup>3490</sup> Moreover, DCT-306 maintained that Sankoh was in fact based in Gbarnga, going to Sierra Leone for no more than two weeks at a time.<sup>3491</sup>

### *Sesay-Taylor Meetings*

1208. Taylor and Issa Sesay contradicted each other on key aspects of meetings between Sesay and Taylor which resulted in the release of the hostage UN peacekeepers and eventually the appointment of Sesay as RUF leader. First, Taylor claimed that he gave Sesay a satellite phone during a meeting in July or August 2000,<sup>3492</sup> but also, responding to King Perry Kamara’s testimony, claimed he never gave Sesay a phone.<sup>3493</sup> Sesay resolved the matter confirming that he indeed received a satellite phone from Taylor, but in late 2000.<sup>3494</sup> Further, Taylor claimed that Gibril Massaquoi

<sup>3484</sup> Accused, TT, 28 January 2010, pp. 34350-51.

<sup>3485</sup> e.g. Accused, TT, 10 September 2009, p. 28564.

<sup>3486</sup> Accused, TT, 11 January 2010, p. 33152.

<sup>3487</sup> DCT-172, TT, 16 August 2010, p. 46414.

<sup>3488</sup> Accused, TT, 11 January 2010, pp. 33153-56 (referring to Exh. P-416 A & B).

<sup>3489</sup> Accused, TT, 25 November 2009, pp. 32408-09.

<sup>3490</sup> Accused, TT, 10 September 2009, p. 28597 and 20 July 2009, pp. 24808-10, 24834.

<sup>3491</sup> DCT-306, TT, 20 April 2010, pp. 39369-70.

<sup>3492</sup> Accused, TT, 12 August 2009, p. 26664.

<sup>3493</sup> Accused, TT, 16 September 2009, p. 29006.

<sup>3494</sup> DCT-172, TT, 8 July 2010, p. 44042.

was present at RIA when Sesay was announced the official leader of the RUF.<sup>3495</sup>  
Sesay, however, was certain he was not there.<sup>3496</sup>

*NPFL Involved in the Killing of Sankara?*

1209. Denying that his Liberian Special Forces were involved in the killing of pan-African hero Thomas Sankara in Burkina Faso, Taylor insisted that his men were already in Libya at the time of Sankara's killing. [REDACTED]

[REDACTED]  
[REDACTED]<sup>3497</sup>

*NPFL Personnel Involved in Sierra Leone*

1210. Taylor claimed he did not know of One Man One, an NPFL fighter involved in the initial stages of the war in Sierra Leone.<sup>3498</sup> DCT-226, however, identified One Man One as a well-known and brave NPFL fighter.<sup>3499</sup> Further, DCT-228 confirmed that One Man One was a brave front line fighter later executed as a conspirator.<sup>3500</sup> Moreover, besides not knowing the famous One Man One, Taylor was confused as to the position of Sam Tuah. First, he claimed that Tuah commanded the NPFL forces in Sierra Leone.<sup>3501</sup> Yet, he also claimed that Tuah, who wasn't a Special Force, could never have been a NPFL commander.<sup>3502</sup>

1211. Additionally, Taylor claimed that Charles Timber, a member of the special operations, was killed fighting ULIMO in Sierra Leone.<sup>3503</sup> In contrast, four Defence witnesses testified that Timber, a strong NPFL fighter and commander,<sup>3504</sup> was killed during an attack on the Sierra Leone army at Daru Barracks<sup>3505</sup> – a very important objective for the RUF.<sup>3506</sup>

<sup>3495</sup> Accused, TT, 19 August 2009, p. 27169.

<sup>3496</sup> DCT-172, TT, 2 August 2010, p. 45271.

<sup>3497</sup> [REDACTED]

<sup>3498</sup> Accused, TT, 22 July 2009, p. 25060.

<sup>3499</sup> DCT-226, TT, 17 May 2010, p. 40953.

<sup>3500</sup> DCT-228, TT, 19 May 2010, pp. 41234-36, 41253-54.

<sup>3501</sup> Accused, TT, 20 July 2009, p. 24841.

<sup>3502</sup> Accused, TT, 22 July 2009, p. 25057.

<sup>3503</sup> Accused, TT, 26 October 2009, pp. 30240-41 and 23 September 2009, p. 29483.

<sup>3504</sup> DCT-292, TT, 1 June 2010, pp. 41825-26.

<sup>3505</sup> DCT-146, TT, 12 April 2010, p. 38755; DCT-172, TT, 16 August 2010, pp. 46421-22; DCT-292, TT, 1 June 2010, pp. 41825-26; DCT-306, TT, 19 April 2010, p. 39348.

<sup>3506</sup> DCT-306, TT, 19 April 2010, p. 39348.

*Child Soldiers and Boy Scouts*

1212. Taylor's denial that the NPFL recruited child soldiers<sup>3507</sup> demonstrated his belief that with rhetorical skill he could avoid responsibility for any act by misdirecting his audience with long and repeated denials. Taylor denied that there was a military unit called SBU in the NPFL,<sup>3508</sup> rather there was only "a unit of young people," "like you have a boy scout."<sup>3509</sup> Taylor himself admitted that he had an SBU<sup>3510</sup> and the word was used throughout Gbarnga,<sup>3511</sup> but not by the military NPFL. Like Taylor, Yanks Smythe admitted the NPFL used the term SBUs, but claimed it was a title reserved for orphans used for domestic chores.<sup>3512</sup> Contrarily, DCT-179's statement of 29 April 2009, recorded that armed, under age SBUs, part of the NPFL ranks, were stationed at checkpoints and gates, including the gate outside the executive mansion.<sup>3513</sup>

1213. Further, Defence exhibits contradict Taylor's lies regarding SBUs. These exhibits confirm the NPFL's infamous use of child soldiers. Exhibit D-118, an article by a journalist sympathetic to Taylor, noted that soldiers as young as nine and ten said they were engaged in revenge killings.<sup>3514</sup> Moreover, in Exhibit D-301, Herman Cohen, a one-time lobbyist for Taylor, reported "that the most striking, and frightening, aspect of Taylor's forest hideaway was the overwhelming presence of heavily armed 14 to 16 year-old boys."<sup>3515</sup>

*Stepping Down for the Good of the People?*

1214. Taylor claimed he left the presidency in the interest of peace and love for his people. He described in dramatic detail how the shelling of civilians at the Greystone compound in Monrovia compelled him to inform his fellow West African heads of state at the Accra Peace Conference on 3-5 June 2003 that he would resign.<sup>3516</sup> Yet, there is a problem with this tale of self-sacrifice. First, the particular LURD attacks to which he refers did not begin until 24 June 2003 and the earliest news reports concerning the

<sup>3507</sup> Accused, TT, 28 January 2010, p. 34399.

<sup>3508</sup> Accused, TT, 9 September 2009, p. 28481 (responding to TF1-548, TT, 8 February 2008, p. 3483).

<sup>3509</sup> Accused, TT, 21 July 2009, p. 24902.

<sup>3510</sup> Accused, TT, 4 November 2009, p. 31120.

<sup>3511</sup> Accused, TT, 21 July 2009, p. 24902.

<sup>3512</sup> DCT-179, TT, 26 February 2010, p. 36144.

<sup>3513</sup> Exh. D-114B, p. 13, para. 85f; corroborated by TF1-561, TT, 15 May 2008, pp. 9932-35.

<sup>3514</sup> Exh. D-118, p. 11.

<sup>3515</sup> Exh. D-301, p. 154.

<sup>3516</sup> Accused, TT, 14 July 2009, pp. 24342-43, 24344-46.

shelling at Greystone were not until July 2003.<sup>3517</sup> Moreover, Taylor failed to mention that as LURD rapidly advanced on Monrovia, he failed to receive arms shipments which would have allowed him to continue battling LURD, as well as ensuring his own personal security.<sup>3518</sup>

*Failed Attempts to Discredit Prosecution Witnesses*

1215. Many of Taylor's most ridiculous lies surfaced during attempts at discrediting Prosecution witnesses. For example, Taylor denied Prosecution testimony that he was called CIC, even while admitting that CIC was short for his title, commander-in-chief.<sup>3519</sup> Defence witnesses Smythe and Dehmie testified that Charles Taylor was indeed called CIC.<sup>3520</sup>

1216. When the testimony of TF1-567, identifying the SOD uniforms of those who accompanied Zigzag Marzah to Buedu, was put to Taylor,<sup>3521</sup> he denied that he ever knew of a unit called SOD.<sup>3522</sup> Even when confronted with NGO reports detailing the abuses committed by SOD forces,<sup>3523</sup> he faulted the reports and refused to admit that SOD, the Special Operations Division existed. Nonetheless, DCT-179 and DCT-215 both identified SOD as a Liberian National Police unit during Taylor's presidency and could not explain why Taylor would not be aware of its existence.<sup>3524</sup>

1217. Taylor also questioned TF1-114's account that he saw NPFL Navy Rangers in yellow shirts bring ammunition to Bockarie in July 1998.<sup>3525</sup> Taylor denied knowing of Navy Ranger t-shirts<sup>3526</sup> and declared that "nobody goes to war with a yellow t-shirt."<sup>3527</sup> On cross-examination, however, Taylor was shown photographs of, and identified, Roland Duoh, Chief of Staff of the Navy,<sup>3528</sup> and Yeaten, surrounded by armed soldiers, in military dress, wearing yellow t-shirts with Navy Ranger imprinted on them.<sup>3529</sup>

<sup>3517</sup> Accused, TT, 11 January 2010, pp. 33202-26; Exh. D-45, p. 24.

<sup>3518</sup> Accused, TT, 5 February 2010, pp. 34816-24, 34828-29, 34834-35.

<sup>3519</sup> Accused, TT, 27 October 2009, p. 30375 (responding to TF1-532, TT, 10 March 2008, p. 5656).

<sup>3520</sup> DCT-179, TT, 26 February 2010, p. 36201; DCT-228, TT, 18 May 2010, p. 41152.

<sup>3521</sup> TF1-567, TT, 2 July 2008, pp. 12904-05 (read at Accused, TT, 14 September 2009, pp. 28727-30).

<sup>3522</sup> Accused, TT, 14 September 2009, p. 28728.

<sup>3523</sup> Accused, TT, 11 January 2010, pp. 33207-08; referring to Exh. D-45, p. 25.

<sup>3524</sup> DCT-179, TT, 1 March 2010, pp. 36365-66 and 2 March 2010, pp. 36461-63; DCT-215, TT, 26 March 2010, p. 38176 and 31 March 2010, pp. 38348-49.

<sup>3525</sup> TF1-114, TT, 15 January 2008, p. 1281 (summarized at Accused, TT, 2 November 2009, p. 30896).

<sup>3526</sup> Accused, TT, 2 February 2010, p. 30897.

<sup>3527</sup> Accused, TT, 9 September 2009, p. 31432.

<sup>3528</sup> Accused, TT, 2 February 2010, p. 34634.

<sup>3529</sup> Accused, TT, 2 February 2010, pp. 34634-37 (referring to Exh. P-493 A-E).

1218. Furthermore, Taylor claimed that he did not move into the White Flower in Congo Town until his birthday on 28 January 1999, denying that he could have met Bockarie there in 1998<sup>3530</sup> as TF1-276 testified.<sup>3531</sup> Apparently, Taylor forgot that he earlier identified photographs of Jimmy Carter's visit to White Flower in 1998. The first of the photographs of Carter's visit is dated 10 April 1998.<sup>3532</sup> Further, Taylor was contradicted by his own witness, DCT-292, who used to walk in front of White Flower on his way to work each day and confirmed Taylor moved to White Flower after the elections in July 1997.<sup>3533</sup> Finally, Exhibit D-374, a video of White Flower shows a plaque inscribed with August 1997 next to the front door.<sup>3534</sup>
1219. Taylor also lied about access to White Flower in order to discredit the testimony of TF1-375 who testified that he saw arms brought through a door connecting the White Flower compound to the SSS building next door.<sup>3535</sup> Neither the White Flower video nor the photographs tendered by the Defence showed the door, in support of Taylor's denial.<sup>3536</sup> Yet, after clear pictures of this door were disclosed by the Prosecution, Taylor confirmed that indeed there was a door connecting White Flower to the SSS building next door.<sup>3537</sup>
1220. Zigzag Marzah testified about Taylor's role in directing the RUF, but also about Liberian atrocities for which Taylor was responsible. Taylor implied that any witness who said he saw Marzah before he came to testify – when Taylor “first laid eyes on him” – was a liar.<sup>3538</sup> When asked to explain how he knew Marzah was an orderly if he had never seen him before, Taylor backtracked testifying that Marzah was a shoe shiner and he did not know of him until 2003 when Yeaten identified him as one of his orderlies.<sup>3539</sup> Taylor did not explain how he could recall such an innocuous conversation six years later.

<sup>3530</sup> Accused, TT, 22 September 2009, p. 29357 and 5 August 2009, p. 26045.

<sup>3531</sup> TF1-276, TT, 23 January 2008, pp. 1976-77 (read at Accused, TT, 22 September 2009, pp. 29354-56).

<sup>3532</sup> Exh. D-150.

<sup>3533</sup> DCT-292, TT, 1 June 2010, p. 41785.

<sup>3534</sup> Exh. D-374.

<sup>3535</sup> Accused, TT, 29 October 2009, p. 30691.

<sup>3536</sup> Accused, TT, 4 February 2010, p. 34698.

<sup>3537</sup> Accused, TT, 4 February 2010, pp. 34698-99.

<sup>3538</sup> Accused, TT, 29 September 2009, p. 29816.

<sup>3539</sup> Accused, TT, 28 January 2010, pp. 34437-38.



1221. Moreover, Taylor's own witnesses testified that, contrary to Taylor's claim that Marzah was a shoe shiner, Zigzag was an infamous NPFL perpetrator and key operations commander. DCT-226 recalled Marzah with the NPFL as early as 1990<sup>3540</sup> and along with DCT-008, identified him as a member of Jungle Fire in 1993-4.<sup>3541</sup> DCT-190 identified Marzah as one of Taylor's most important commanders, spearheading the attempt to repel LURD in early 2000.<sup>3542</sup> Further, DCT-224 testified that Marzah was in Gbarnga with Yeaten as early 1992<sup>3543</sup> and "everyone in our area knew Zigzag."<sup>3544</sup> Even more revealing, she spoke to Taylor about the disappearance of Dokie crying, "Please tell Yeaten and Zigzag to show me their whereabouts."<sup>3545</sup>

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<sup>3540</sup> DCT-226, TT, 11 May 2010, p. 40838.

<sup>3541</sup> DCT-226, TT, 11 May 2010, p. 40841; DCT-008, TT, 24 August 2010, pp. 47007-08.

<sup>3542</sup> DCT-190, TT, 16 June 2010, pp. 42503-04, 43455-56.

<sup>3543</sup> DCT-224, TT, 3 June 2010, pp. 42091-93.

<sup>3544</sup> DCT-224, TT, 3 June 2010, p. 42093.

<sup>3545</sup> DCT-224, TT, 3 June 2010, p. 42094.

## XI. DEFENCE CASE

### INTRODUCTION

1222. The evidence produced during the Defence case imploded producing further proof of Taylor's responsibility for the crimes charged. The twenty-one witnesses called by the Defence frequently contradicted each other, almost all contradicted Taylor's own testimony, and each provided further corroboration of aspects of the Prosecution case.

1223. For example, Defence witnesses provided further evidence of Taylor's role in creating the RUF and forcibly recruiting Sierra Leoneans held captive in NPFL jails to train at one of Taylor's NPFL camps. Taylor in his testimony denied any role in the creation of the RUF or any knowledge of the RUF training at Camp Naama, which he described as the largest military base in Liberia and the headquarters of his artillery unit.<sup>3546</sup> But the testimony of Defence witnesses, several of whom were themselves Vanguardians trained at Naama, demonstrated that Taylor's denials were completely implausible. DCT-292 was arrested by NPFL forces when they attacked Totota, Liberia in November 1990. The NPFL was arresting Sierra Leoneans and he was detained in a container for three days along with Prince Taylor because they were Sierra Leoneans and threatened with execution.<sup>3547</sup> Foday Sankoh had them released from the NPFL detention and along with up to 70 others driven to Camp Naama. Along the route, they passed without problems through five NPFL checkpoints.<sup>3548</sup>

1224. John Vincent's evidence made it apparent that the RUF was in reality a sub-unit of the NPFL. Vincent was interrogated by Isaac Mongor when the NPFL captured Bong Mines. He joined the NPFL to avoid harassment,<sup>3549</sup> was armed with a single barrel gun and was assigned to a checkpoint for a few weeks before being recruited by another NPFL officer,<sup>3550</sup> John Kargbo, to join the RUF.<sup>3551</sup> Vincent provided clear evidence that the RUF army was never a true Sierra Leonean revolutionary organization but rather a mercenary army created by Taylor. He said that 252 of the 328 RUF

<sup>3546</sup> Accused, TT, 20 July 2009, pp. 24756, 24758; Naama was located about 30 miles from Gbarnga; Accused, TT, 16 July 2009, p. 24680; Naama was the main artillery base.

<sup>3547</sup> DCT-292, TT, 31 May 2010, pp. 41677-91.

<sup>3548</sup> See Exh. P-536, a map of Liberia where the witness marked the route and checkpoints they passed through.

<sup>3549</sup> DCT-215, TT, 25 March 2010, p. 37980.

<sup>3550</sup> DCT-215, TT, 25 March 2010, pp. 37980-81.

<sup>3551</sup> DCT-215, TT, 25 March 2010, p. 37984 and 30 March 2010, p. 38259.

Vanguards (77%) were Liberians.<sup>3552</sup> Vincent said he joined the RUF because he was promised he would be able to “command people” like the Special Forces in Liberia and that he, a Liberian, would be given a job in the government of Sierra Leone when the RUF triumphed.<sup>3553</sup> Later in the war, Vincent was worried that Issa Sesay would arrange to have him killed because of his perceived loyalty to Bockarie, so Vincent who for a decade had fought as a mercenary in Sierra Leone for the RUF, simply returned to Liberia and was welcomed back into Taylor’s forces joining the AFL and then the elite SSS.

1225. The last Defence witness, Sam Kolleh, testified that he was captured by an NPFL soldier while he was in Gbarnga looking for food and was taken to Naama where he spent a couple of months at the NPFL part of the base. Then he was turned over by his captor to the RUF for training.<sup>3554</sup> He did not try to escape because the base was in NPFL territory and if captured he would be treated as a deserter.<sup>3555</sup>

1226. Although other Defence witnesses proved that DCT-025 had given this Trial Chamber clearly perjured evidence regarding his time in Sierra Leone,<sup>3556</sup> there is no dispute that he was a Vanguard. DCT-025’s evidence about Camp Naama is still useful in understanding how naive one would have to be to believe Taylor’s claim to have been unaware of the creation of the RUF army at his own base in the center of his territory. DCT-025 said that the Vanguard trainees at Naama would be fed two or three meals a day.<sup>3557</sup> He said he joined the training at Naama in August 1990<sup>3558</sup> and when he arrived at the base there were already a “whole lot of people.”<sup>3559</sup> The evidence is undisputed that the training at Naama lasted until the invasion of Sierra Leone in late March 1991, so from DCT-025’s testimony, it is clear that training was ongoing for at least 7 months. If 328 trainees (the number of Vanguards according to John Vincent) were given only one meal a day for 7 months (210 days) that totals 68,880 meals. If fed at least two meals a day as testified to by DCT-025, that would be a minimum of

<sup>3552</sup> DCT-215, TT, 30 March 2010, p. 38258.

<sup>3553</sup> DCT-215, TT, 25 March 2010, pp. 37985-87.

<sup>3554</sup> DCT-102, TT, 4 November 2010, p. 48675.

<sup>3555</sup> DCT-102, TT, 4 November 2010, p. 48679.

<sup>3556</sup> He claimed he had left Sierra Leone in 1996 never to return, but numerous Defence witnesses confirm seeing him as late as the year 2000 with the RUF. In order to protect the identity of the witness, these references are not here cited but can be found by searching the 2010 transcripts for references to the witness’s real name, particularly the testimony of Issa Sesay.

<sup>3557</sup> DCT-025, TT, 17 March 2010, p. 37411.

<sup>3558</sup> DCT-025, TT, 12 March 2010, p. 37227.

<sup>3559</sup> DCT-025, TT, 12 March 2010, pp. 37232-33.

137,760 meals. This is during civil war when food was scarce as noted by the testimony of Sam Kolleh who said he was captured in Gbarnga by the NPFL while searching for food.<sup>3560</sup> It is clear that the training of over 300 fighters for 7 months required a major logistical operation in the heart of NPFL territory and could not have gone on without Taylor's knowledge.

1227. Issa Sesay provided further evidence showing how Taylor's testimony that he was unaware of the creation of the RUF at Camp Naama is ludicrous. Sesay testified he was tricked by Sankoh into boarding a truck in Abidjan and then taken to an NPFL training base at Cuttington University before being transferred to Naama. Sesay said that Sankoh travelled through NPFL territory armed with an AK-47. At Naama, Sesay testified the RUF were trained by several people who were NPFL, including Isaac Mongor, PI and Gonkanu.<sup>3561</sup> DCT-292 also testified that NPFL officers Gonkanu and One Man One were training RUF recruits at Naama.<sup>3562</sup> Sesay said that Isaac Mongor, who John Vincent had identified as an NPFL soldier, had lectured the recruits in how to ensure compliance in a captured area by dividing the civilians and killing one group.<sup>3563</sup>

1228. Sesay also pointed out that Momoh Gibba was a Vanguard trained at Naama who left the camp at the end of training, "while we were entering",<sup>3564</sup> Sesay confirmed that this was the same Momoh Gibba who was one of Charles Taylor's closest aides for over a decade serving as a bodyguard aide-de-camp and as head of the ATU.<sup>3565</sup> In many photographs of Taylor in the Presidential Papers, Gibba is seen immediately at Taylor's side.<sup>3566</sup> Yet Taylor wants the Trial Chamber to accept his absurd testimony that the RUF army was created on his territory, with recruits taken from his NPFL jails and trained for over seven months at his military base and he remained ignorant of this even up to the time he testified in 2009. Moreover, Sesay threw further light on Taylor's lie

<sup>3560</sup> DCT-102, TT, 1 November 2010, p. 48367.

<sup>3561</sup> DCT-172, TT, 5 July 2010, p. 43601.

<sup>3562</sup> DCT-292, TT, 2 June 2010, p. 41867.

<sup>3563</sup> DCT-172, TT, 5 July 2010, pp. 43601-02. [REDACTED]

<sup>3564</sup> DCT-172, TT, 5 July 2010, p. 43614.

<sup>3565</sup> DCT-172, TT, 16 August 2010, p. 46405.

<sup>3566</sup> See Exhibits D-297C, D-165, D-172, P-122F and D-141 which Sesay identified as the Momoh Djiba who was trained at Naama.

that he did not know Sankoh at this time, as Sesay testified that Sankoh had told the recruits at Naama that Taylor was his friend.<sup>3567</sup>

1229. The Prosecution had presented evidence that before the RUF invasion, Charles Taylor had threatened on international radio that Sierra Leone would ‘taste the bitterness of war.’<sup>3568</sup> Taylor denied making such a threat, testifying “there is no human being on this planet that heard in these words that Sierra Leone would taste the bitterness of war.”<sup>3569</sup> Yet two of the Defence’s own witnesses, DCT-068<sup>3570</sup> and Issa Sesay<sup>3571</sup> admitted that they themselves had heard Taylor utter this threat.

1230. The Defence witnesses also provided further incriminating evidence of: the role of the NPFL in arming the RUF and in spearheading the invasion of Sierra Leone in March 1991;<sup>3572</sup> Taylor’s continued contacts and support to the RUF through their external delegation located in the Ivory Coast border town of Danane,<sup>3573</sup> a long-time Taylor base;<sup>3574</sup> Foday Sankoh’s immediate efforts to violate the Abidjan Accord with the help of the NPFL by obtaining ammunition in Monrovia;<sup>3575</sup> the delivery of ammunition by Taylor’s subordinates to the RUF during the Indictment period,<sup>3576</sup> Taylor’s use of the RUF as his surrogate army in fighting in Lofa County and Guinea,<sup>3577</sup> and Taylor’s

<sup>3567</sup> DCT-172, TT, 17 August 2010, p. 46429. Sesay’s contradiction of Taylor’s testimony is also consistent with what Taylor told Mary Harper of the BBC. When confronted with the recording, Taylor admitted that he had said, “It is known by everyone that I have been friendly with Foday Sankoh for many years before the revolution.” Accused, TT, 11 January 2010, p. 33154.

<sup>3568</sup> TF1-532, TT, 1 April 2008, p. 6311; TF1-275, TT, 20 February 2008, p. 4334; TF1-015, TT, 8 January 2008, p. 738; TF1-114, TT, 16 January 2008, p. 1380; Dr. Stephen Ellis, TT, 16 January 2008, p. 1463; TF1-577, TT, 3 June 2008, p. 10867; TF1-358, TT, 21 November 2008, p. 20824; TF1-233, TT, 1 October 2008, p. 17733; TF1-210, TT, 30 October 2008, p. 19629.

<sup>3569</sup> Accused, TT, 20 July 2009, p. 24736.

<sup>3570</sup> DCT-068, TT, 11 March 2010, p. 37082.

<sup>3571</sup> DCT-172, TT, 17 August 2010, p. 46453.

<sup>3572</sup> DCT-215, TT, 25 March 2010, pp. 38015-17 and 26 March 2010, p. 380778; DCT-292, TT, 2 June 2010, pp. 41858, 41870; DCT-172, TT, 16 August 2010, p. 46419; Sesay agreed with DCT-215 that the RUF was armed by the NPFL.

<sup>3573</sup> See testimony of DCT-306 and DCT-292.

<sup>3574</sup> DCT-306 testified that the RUF used the radio in the home of Musa Cisse, was given 10 million CFA from Taylor for publishing “Footpaths to Democracy” and that Taylor invited the delegation to Gbarnga and to accompany him to Accra. DCT-292 confirmed that Taylor provided the RUF delegation with communications.

<sup>3575</sup> The logical inference from the evidence is that Taylor had arranged the ammunition purchase for the RUF as he was in contact with both ECOMOG in Liberia and the RUF in the Ivory Coast. DCT-292 testified that right after signing the Abidjan Accord, Sankoh asked the witness to go on a mission to buy ammunition from an ECOMOG officer in Monrovia. The witness was told it would all be arranged by Saye Boayou. Two Defence witnesses identified Saye Boayou as one of Taylor’s NPFL commanders: DCT-215, TT, 25 March 2010, pp. 37983-84 and DCT-228, TT, 19 May 2010, p. 41167. The evidence is undisputed that Sankoh was no longer travelling to Liberia after ULIMO closed the border in 1993 and there is nothing in the evidence to explain how Sankoh could have made contact with ECOMOG in Liberia at this time in late 1996 other than through Taylor. Taylor had admitted to a practice of bribing ECOMOG officers to sell ammunition to his forces.

<sup>3576</sup> DCT-215, TT, 31 March 2010, p. 38369; DCT-008, TT, 7 August 2010, p. 48183.

<sup>3577</sup> DCT-215, TT, 30 March 2010, p. 38260.

murder of Sam Bockarie, Bockarie's family and others in an attempt to conceal his support for the rebels.<sup>3578</sup>

1231. The Defence Opening Statement on 13 July 2009 promised to establish the following:

- a. Taylor could not have been involved as alleged in supporting the rebels in Sierra Leone because his plate was full running Liberia.<sup>3579</sup>
- b. Because of disarmament and the situation of arms and ammunition in Liberia, it would have been impossible to have supplied the rebels with war materials.<sup>3580</sup>
- c. All of Taylor's interactions with the rebels during the Indictment period were done in his role as peacemaker and all were done with the full knowledge and approval of ECOWAS and the United Nations.<sup>3581</sup> The Defence said Taylor had made "strenuous efforts to achieve peace in Sierra Leone" and promised to provide proof of this "in abundant documentary form."<sup>3582</sup>

#### My Plate Was Full

1232. The Defence Opening Statement promised to produce evidence that Taylor was too busy with his problems in Liberia, including dealing with ULIMO and LURD,<sup>3583</sup> to have taken the major role in the Sierra Leone conflict shown by Prosecution evidence. This argument is unpersuasive to all but the most naive.

1233. Taylor's proof that he was too busy to deal with Sierra Leone consisted of going through photographs of various ambassadors to Liberia presenting their credentials. He claimed that each ceremony of accreditation would take two or three hours, maximum,<sup>3584</sup> and showed pictures of receiving the accreditation of ten

<sup>3578</sup> DCT-102 testified that Sam Bockarie and his family were killed by Benjamin Yeaten. See DCT-102, TT, 5 November 2010, pp. 48892-94. The witness also gave details of how Superman was killed that corroborate the testimony of TF1-399. See DCT-102, TT, 5 November 2010, p. 48899. DCT-215 confirmed that Daniel Tamba was killed in a Jungle Fire operation when shot from behind by Nyallay, a former RUF who had been a bodyguard to Morris Kallon and then Benjamin Yeaten, corroborating the evidence of TF1-399 and TF1-375. See DCT-215, TT, 31 March 2010, pp. 38368-70.

<sup>3579</sup> Defence Opening Statement, TT, 13 July 2009, p. 24307.

<sup>3580</sup> Defence Opening Statement, TT, 13 July 2009, p. 24313.

<sup>3581</sup> Defence Opening Statement, TT, 13 July 2009, pp. 24316-17.

<sup>3582</sup> Defence Opening Statement, TT, 13 July 2009, p. 24295.

<sup>3583</sup> Defence Opening Statement, TT, 13 July 2009, p. 24307: "How could I have been micromanaging all of these radio operators, these bodyguards, these low level individuals who claim to have been in direct contact with Mr. Taylor when I'm running a country besieged on several sides, firstly by ULIMO, then LURD, then MODEL? How could I?" It is not clear what Prosecution evidence counsel was referring to when he mentioned direct contact between Taylor and radio operators and low-level individuals.

<sup>3584</sup> Accused, TT, 29 July 2009, p. 25583.

ambassadors.<sup>3585</sup> It is hard to understand why the process of receiving the official letters of accreditation for an ambassador would take three hours if a President were so busy, but taking the maximum figures, Taylor accounted for 30 hours of his time. Another group of documents offered into evidence to prove Taylor had no time for Sierra Leone was a group of photographs<sup>3586</sup> showing Taylor having lunch with Sepp Blatter, the President of FIFA (Federation Internationale de Football Association).

1234. Yet the Defence case provided abundant evidence showing Taylor did indeed have time for Sierra Leone. Even when the Lofa border was occupied by ULIMO forces, Taylor maintained close contacts with the RUF, which established an “external delegation” based in Danane, a small town in Ivory Coast<sup>3587</sup> that had been used by the NPFL as a transit point for recruits and arms.<sup>3588</sup> The choice of Danane as the base for the RUF delegation is illuminating as to Taylor’s continued influence over the RUF. The town is close to the Liberian border and was the home of Musa Cisse, Taylor’s confidante and, later, Chief of Protocol, who was used to arrange international arms deals. DCT-179 testified that when the NPFL had only two Flyaway radios, one was based in Danane.<sup>3589</sup> [REDACTED]

[REDACTED]<sup>3590</sup> [REDACTED] The only logical explanation for the RUF establishing the external delegation in Danane as opposed to Abidjan, Yamoussoukro or another city in the region where embassies and international media would likely be present was in order to have close access to Taylor. The location of the delegation next to the Liberian border in Danane close to Musa Cisse’s house allowed Taylor to influence and promote the RUF.

1235. DCT-306 testified that when the RUF delegation arrived in Danane, Musa Cisse set up a meeting with the local police to arrange identity cards and made the radio at his house available to the RUF delegation, who used it to communicate with Sankoh twice a

<sup>3585</sup> Accused, TT, 29 July 2009, pp. 25583-85.

<sup>3586</sup> See Exhibits D-302A, B and C.

<sup>3587</sup> See Exh. P-566.

<sup>3588</sup> Accused, TT, 15 July 2009, p. 24555 and 3 November 2009, p. 31007 and 9 September 2009, p. 28470 and [REDACTED]; DCT-179, TT, 22 February 2010, p. 35651.

<sup>3589</sup> DCT-179, TT, 22 February 2010, p. 35648.

<sup>3590</sup> [REDACTED].

week<sup>3591</sup> and to receive reports from the battlefield.<sup>3592</sup> Taylor was informed about the assistance given to the RUF.<sup>3593</sup>

1236.DCT-306 also testified that Taylor sent an invitation through Musa Cisse's radio operator to invite the external delegation to Gbarnga.<sup>3594</sup> In July 1995, two members of the RUF delegation were Taylor's guests for three weeks in Gbarnga and Taylor then took them along on a trip to Accra and back to Danane, paying all of their expenses and giving them an allowance.<sup>3595</sup>

1237.Taylor also summoned the RUF external delegation to his hotel in Abidjan in December 1995 to congratulate them on the launch of the propaganda document, "Footpaths to Democracy." Taylor was still a warlord leading the NPFL faction and not yet elected President or invited to join the Committee of Five. Apparently in the midst of his own civil war, Taylor had enough time and interest in the RUF to review this document. He invited the delegation to his hotel in Abidjan and gave them 10 million CFA saying "when you market yourself, that is an important start." <sup>3596</sup>

1238.DCT-306's testimony is consistent with testimony of Prosecution witness TF1-045 that money was sent through Musa Cisse to RUF fighters in Danane and directly contradicts what Charles Taylor said about TF1-045's testimony:

It just doesn't stop. This is a blatant, blatant lie. Never sent them any money, did not know that they were there or what they were doing. Had no idea of what they were doing. Foday Sankoh had never contacted me.<sup>3597</sup>

1239.Taylor's own testimony also made it clear he did in fact have time to deal with Sierra Leone, when he claimed as discussed in more detail below, that he was the "lead person in the crisis."<sup>3598</sup> During his direct examination, Taylor admitted to summoning Sam Bockarie to Monrovia after his election and meeting with him in August, September and November, providing him with money, a satellite phone, and providing the RUF with an office or "guesthouse" in Monrovia. Taylor also admitted to sheltering Sam

<sup>3591</sup> DCT-306, TT, 14 April 2010, p. 38952.

<sup>3592</sup> DCT-306, TT, 14 April 2010, p. 38957.

<sup>3593</sup> DCT-306, TT, 14 April 2010, p. 38953.

<sup>3594</sup> DCT-306, TT, 14 April 2010, p. 38959.

<sup>3595</sup> DCT-306, TT, 14 April 2010, pp. 38960-64, contradicting Taylor's testimony that he had no contact with the RUF between 1992 and 1999. See Accused, TT, 17 September 2009, p. 29175.

<sup>3596</sup> DCT-306, TT, 14 April 2010, p. 39000.

<sup>3597</sup> Accused, TT, 1 October 2009, p. 30089.

<sup>3598</sup> Accused, TT, 27 July 2009, p. 25308.



Bockarie in Liberia and refusing to turn him over to the Sierra Leone government.<sup>3599</sup> He claimed to have granted Liberian citizenship to Bockarie and hundreds of RUF fighters who he integrated into his fighting forces at the end of 1999, less than one year after the infamous Freetown invasion and the notorious atrocities that took place in that late 1998-February 1999 offensive. Issa Sesay, another notorious killer described by one of Taylor's Defence witnesses as even more ruthless than Bockarie,<sup>3600</sup> testified he met with Taylor on six separate occasions between May and December 2000.<sup>3601</sup> Taylor himself testified he received briefings about the rebel attacks in Sierra Leone in December 1998 and claimed that he sent troops to the border in response to the crisis.

#### All My Contacts with RUF Were for Peace

1240. The second Defence theory offered patently contradicted the first. While Taylor first tried to say he had no time to deal with Sierra Leone because of his busy schedule receiving ambassadors and dealing with other matters, his second defence was that he was very involved in the peace process in Sierra Leone and was the "lead person in the crisis." Taylor testified that soon after taking office, he was asked by ECOWAS to join the Committee of Five dealing with the situation in Sierra Leone. Taylor explained ECOWAS told him, "we're going to put you on this committee to see how much help you can be to us because you know how to deal with rebels."<sup>3602</sup>

1241. It made perfect sense for ECOWAS to involve the rebels' principal sponsor in negotiations, as it was clear then and as would be proven again during subsequent crises in Sierra Leone, it was Taylor who controlled the rebels. Taylor was invited into the negotiations on/for Sierra Leone for the same reason Slobodan Milosevic was invited to the Dayton peace negotiations over the war in Bosnia and Herzegovina. Just as Milosevic controlled the Bosnian-Serb forces, Taylor was the ultimate decision-maker with control over the RUF rebels.

1242. Taylor said that ECOWAS made him the point man or "Point President" to deal with the rebels, which meant he was "the lead person in the crisis."<sup>3603</sup> It is noteworthy that no document was produced supporting Taylor's claim to have been appointed the

<sup>3599</sup> Charles Taylor testified regarding Bockarie on 26 October 2009, p. 30221: "But I mean, you know - but this - you know, sometimes it's just so - look, I loved that boy and I am saying - you didn't ask me this question; I volunteered. I would have never turned him over to Tejan Kabbah, you understand me?"

<sup>3600</sup> DCT-292, TT, 1 June 2010, p. 41797.

<sup>3601</sup> DCT-172, TT, 26 July 2010, p. 44602.

<sup>3602</sup> Accused, TT, 14 July 2009, p. 24331.

<sup>3603</sup> Accused, TT, 27 July 2009, p. 25308.

“Point President” or lead person in the Sierra Leone crisis. Taylor tried to use this claim to explain the extensive trips by Sam Bockarie to Monrovia, especially in late 1998 in the lead-up to the huge rebel offensive that culminated in the battle for Freetown in January 1999. Taylor also tried to use this to explain his provision of office and communication facilities in Monrovia for the rebels and a satellite phone for Bockarie. However, the evidence shows that Bockarie’s trips to Monrovia had nothing to do with negotiations, as the government of Sierra Leone, the UN and ECOMOG were not even informed of the trips which were in reality used to prepare for the rebels’ huge offensive launched in December 1998.

1243. The key individual linking Charles Taylor to the crimes committed in Sierra Leone was the ruthless RUF commander Sam Bockarie and much of Taylor’s testimony was devoted to explaining his interactions with Bockarie. Taylor acknowledged that he invited Bockarie to see him in Monrovia, consistent with the evidence presented in the Prosecution case.

1244. However, on the fundamental issue of when he had his first contact with Sam Bockarie, despite having years to prepare his defence and weeks with counsel preparing for his testimony, Charles Taylor told the court two inconsistent versions of the first meeting. On the first day of his testimony, Taylor testified that he ordered Christopher Varmoh, Liberian Mosquito, to contact Bockarie and bring him to Monrovia in the last quarter of 1997 to the beginning of 1998.<sup>3604</sup> However, Taylor later disowned this testimony, claiming it was a mistake and saying his first contact with Bockarie was not through Varmoh in late 1997 to early 1998 but rather when he had Dopoe Merkazon/Menkarzon bring Bockarie to Monrovia in September 1998.<sup>3605</sup>

1245. Taylor admitted to several meetings in 1998 with Sam Bockarie, a man even Defence witnesses described as wicked,<sup>3606</sup> ruthless,<sup>3607</sup> a “devil”,<sup>3608</sup> and a man who was “proud of being feared.”<sup>3609</sup> Taylor’s revised testimony was that he met with Bockarie in September, October and November 1998. Bockarie at that time was on the United

<sup>3604</sup> Accused, TT, 14 July 2009, p. 24338. See also Accused, TT, 25 November 2009, pp. 32427-29 where Taylor claims he later “corrected” this error.

<sup>3605</sup> Accused, TT, 25 November 2009, pp. 32425-28.

<sup>3606</sup> DCT-146, TT, 12 April 2010, p. 38660; DCT-292, 12 August 2010, p. 46174.

<sup>3607</sup> See Exhibit P-430B, where Bockarie says of himself, “I am a ruthless commander.”

<sup>3608</sup> DCT-306, TT, 13 April 2010, pp. 38884-85.

<sup>3609</sup> DCT-172, TT, 13 August 2010, p. 46218.

Nations travel ban list pursuant to Security Council Resolution 1132.<sup>3610</sup> Taylor claimed that all these meetings were held in the interests of peace, that he informed the member states of the Committee of Five<sup>3611</sup> and President Kabbah<sup>3612</sup> of the meetings, that the United Nations approved an exemption to the travel ban for these visits by Bockarie to Monrovia in 1998, and that there are UN accounts of these meetings.<sup>3613</sup> However, despite the Defence having access to tens of thousands of pages of documents from Taylor's "personal archives" and having obtained documents from the United Nations, not one single document has been produced concerning these meetings. The reason for that is obvious: these meetings between the Godfather of the RUF and its military leader were used to plan further offensives and the financing and supply of war materials and therefore were clandestine.

1246. When asked what was discussed at these multiple meetings with Bockarie, Taylor could provide no details of negotiating positions or discussions. Although Taylor testified that Bockarie referred to Foday Sankoh as the RUF leader,<sup>3614</sup> Taylor said he made no attempt to contact Foday Sankoh, who was then in the custody of the Sierra Leone government. Had Taylor truly been acting as a peace negotiator, he would have contacted the political leader of the RUF. Yet Taylor claimed to have never attempted to contact Sankoh when he was in the custody of either the Nigerian or Sierra Leone governments.<sup>3615</sup> Of course, to deal with the prisoner Sankoh, Taylor would have had to give notice to and seek permission from the governments of Nigeria or Sierra Leone. Instead of dealing openly with the political leader of the RUF with notification to all parties, Taylor held secret meetings in Monrovia with the military leader of the RUF, Sam Bockarie, in violation of the UN travel ban. Had Taylor been acting for peace, he would have been communicating with Sankoh. Instead, he held clandestine meetings with the ruthless military leader of the RUF, Sam Bockarie, in order to plan for war.

1247. Had Taylor truly been acting in the interests of peace, there would have also been correspondence before the meetings and none has been produced by the Defence. Had Taylor actually received an exemption from the travel ban for Bockarie's trips in 1998, there would be documents from the United Nations (as there are documents from the

<sup>3610</sup> See Exh. P-302. Bockarie's name is Number Six on the travel ban list.

<sup>3611</sup> Accused, TT, 25 November 2009, p. 32432.

<sup>3612</sup> Accused, TT, 25 November 2009, p. 32432.

<sup>3613</sup> Accused, TT, 25 November 2009, p. 32433.

<sup>3614</sup> Accused, TT, 25 November 2009, p. 32431.

<sup>3615</sup> Accused, TT, 25 November 2009, p. 32432.

UN granting exemptions for travel to Lomé in 1999). There are no exemptions for Sam Bockarie's trips to Liberia in 1998. Had Taylor truly been acting for peace, he would have informed the Sierra Leone government of the outcome of any talks with the RUF, and detailed their demands and negotiating position. In order to act as an intermediary in negotiations with the RUF, Taylor would have needed to communicate with the government of Sierra Leone and ECOWAS in order to understand their positions, but there is no correspondence between Taylor and the government of Sierra Leone nor ECOWAS or its constituent governments over proposed negotiations with the RUF. The Defence produced not a single document—no correspondence, no press release, no photograph, no travel exemptions, not even an aide-memoire—of these meetings. The Defence could not produce such documents because they do not exist since the meetings were clandestine and undocumented.

1248. One of the documents the Defence did produce is Exhibit D-141, the "Presidential Papers" which states on the cover that it covers the "Policies, Speeches, Statements and Record of Activities of the Chief Executive of Liberia, August 2, 1997 – December 31, 1998, a period which includes all three of the visits of Sam Bockarie to Monrovia in 1998 that Taylor admitted to. Yet in the entire book of over 300 pages, no mention is made of Taylor meeting with Bockarie or any other representative of the RUF. Several of the documents in the Exhibit cover the crisis in Sierra Leone, yet Taylor's allegedly open and fully sanctioned meetings with Bockarie are conspicuously absent. The papers include the Final Communiqué of a meeting of ECOWAS heads of state in Abuja from 30-31 October 1998, which according to Taylor's testimony was after he had met twice with Bockarie. The communiqué discusses the crisis in Sierra Leone on pages 305-306 in paragraphs 21-23, but no mention whatsoever is made of Taylor's meetings with Bockarie.

1249. Even more conspicuous is the absence of any mention of Taylor's dealings with the RUF in the Policy Statement by the Government of the Republic of Liberia on Allegations Against Liberia for Involvement in the Sierra Leone Crisis, dated December 29, 1998.<sup>3616</sup> This is a communiqué issued in the midst of the rebels' late 1998 offensive, after the capture of Koidu, Magburaka, Makeni and Lunsar and as rebels led by Gullit stood poised on the Western Peninsula preparing the assault on Freetown while forces commanded by Boston Flomo and Dennis Mingo attacked Port Loko.

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<sup>3616</sup> See Exh. D-141, p. 292.

Taylor's policy statement is notable not only for its failure to condemn the rebel attacks and atrocities, but also for the list of actions given in paragraphs 10-13 on page 293 which discuss Taylor's meetings with President Kabbah but fail to mention his clandestine meetings with Bockarie. Similarly, the preceeding document in the Presidential Papers is a speech given by Taylor on December 22, 1998,<sup>3617</sup> in which he reports on attending Blaise Compoare's inauguration to a second term as President of Burkina Faso and also on page 290 the crisis caused by the rebel offensive in Sierra Leone. Taylor lists actions taken by his government in response to the crisis in Sierra Leone, including his decision to order "the deployment of security and paramilitary units along the border" (interesting given that Taylor claimed in his testimony that his forces did not have any weapons) and relates that he had called President Kabbah and others about the crisis.<sup>3618</sup> Yet again, no mention is made of his recent meetings with Bockarie in September, October or November. Nor does Taylor explain why he would call Kabbah about the crisis but not the person who was leading the offensive, Sam Bockarie, who Taylor had met with on multiple occasions and to whom Taylor testified he had provided a satellite phone and given thousands of US dollars. Nor is there any mention anywhere in the Presidential Papers<sup>3619</sup> of Taylor's financially beleaguered government renting offices and providing communication facilities or a "Guesthouse" to maintain a permanent RUF presence in Monrovia.

1250. Even after the atrocities of late 1998 and early 1999 were widely reported and Sam Bockarie had bragged on the international radio of his willingness to kill and destroy, Taylor displayed no disappointment or disapproval of his partner in "peace negotiations." On the contrary, at a time when many Liberians were reduced to begging<sup>3620</sup> and civil servants such as judges were not paid,<sup>3621</sup> Taylor gave Bockarie luxurious refuge in Monrovia<sup>3622</sup> and integrated the fighters who came with Bockarie into his own elite ATU security force. Taylor denied having asked the RUF to take Bockarie back, but he was contradicted by two of his own witnesses. DCT-292 and Issa

<sup>3617</sup> See Exh. D-141, p. 289.

<sup>3618</sup> See Exh. D-141, p. 290, last paragraph.

<sup>3619</sup> See Exh. D-141.

<sup>3620</sup> Accused, TT, 13 August 2009, p. 26698.

<sup>3621</sup> Accused, TT, 28 January 2010, p. 34358.

<sup>3622</sup> Bockarie was given a salary of US\$1,000 a month at a time when ministers in the Liberian government were earning \$50 a month. Accused, TT, 27 January 2010, p. 34216.

Sesay were both present when Taylor urged the RUF to welcome back the most ruthless of its commanders who was most opposed to disarmament.<sup>3623</sup>

#### I Had No Arms or Ammunition to Give

1251. A key part of Taylor's defence to the charges in this case is the assertion that because the peace deal in Liberia before the 1997 elections required all factions to disarm, Taylor had no arms or ammunition to give to the RUF and all the witnesses who testified to the RUF receiving such arms and ammunition were lying.<sup>3624</sup> Taylor testified:

You know this whole case rests on the capacity of Taylor after he becomes President to provide material to the RUF. If they had done their homework they would have known that there was no material in Liberia. And I tell you something, this is a shut and closed case. If anyone believes that Liberia had arms and ammunition or Charles Taylor had possession of those arms and ammunition in Liberia between the time he becomes President up to about 2001 when I order material then really I'm already guilty in this case.<sup>3625</sup>

1252. Unfortunately for Taylor, his own witnesses confirmed that Liberia did have arms and ammunition during his presidency and prior to 2001. Two of the last witnesses called by the Defence, Issa Sesay and DCT-008, testified that the RUF did get ammunition from Taylor's forces. Sesay even acknowledged that without the ammunition brought back from one of Sam Bockarie's trips where he met with Taylor, the RUF would not have been able to launch the devastating December 1998 offensive that allowed forces

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<sup>3623</sup> DCT-292 testified Taylor invited both Bockarie and Sesay to his residence and told the RUF members "you should take Sam Bockarie back to Sierra Leone." DCT-292, TT, 1 June 2010, p. 41796. According to DCT-292, this meeting with both Bockarie and Sesay took place about March 2000. DCT-292, TT, 1 June 2010, p. 41789. DCT-172 said the meeting occurred in December 2000. DCT-172, TT, 12 August 2010, pp. 46143-44. However, Sesay also testified that the meeting where Taylor asked him to take Sam Bockarie back to the RUF was his very last meeting with Taylor. DCT-172, TT, 23 August 2010, p. 46927 and 26 August 2010, p. 47198.

<sup>3624</sup> Over twenty Prosecution witnesses testified to delivery of arms or ammunition from Taylor or his surrogates to the AFRC/RUF forces during the Indictment period. The witnesses included 12 who themselves took part in the delivery of the weapons (see Section I.A, para. 4), it includes crime base witnesses such as TF1-015 who spoke of civilians carrying loads of ammo from the Dawa border on to Buedu and Kono (see TF1-015, TT, 8 January 2008, p. 731); TF1-263, a forcibly recruited child soldier who saw Charles Taylor's soldiers bring new weapons that were distributed to newly trained recruits in Kailahun in mid-1998 (see TF1-263, TT, 6 October 2008, pp. 17953-55); torture-victim TF1-590, who saw RUF soldiers in Vahun unloading ammunition from planes for transport to Sierra Leone; and TF1-060, who was told by "Eagle" (the bush name of Karmoh Kanneh) that the RUF sent diamonds from Tongo Fields to Taylor in return for ammunition, confirming the testimony of TF1-571. The Prosecution evidence of deliveries of arms and ammunition from Taylor's forces by people such as Zigzag Marzah, Sampson Weah and Daniel Tamba ('Jungle') were further corroborated by Defence witnesses DCT-215, who testified to Jungle bringing ammunition to the RUF from Monrovia, and DCT-008, who testified to ammunition being taken to Sierra Leone by Jungle, Sampson and Marzah.

<sup>3625</sup> Accused, TT, 28 October 2009, p. 30524.

commanded by Sesay to take Kono, Makeni, Magburaka, Lunsar and Waterloo.<sup>3626</sup> Another Defence witness confirmed Prosecution evidence that Daniel Tamba, “Jungle” would regularly bring ammunition from Monrovia to the RUF.<sup>3627</sup>

1253. Taylor claimed that he informed the Security Council in late 2001 or early 2002<sup>3628</sup> that Liberia would be ordering arms to defend itself from LURD attacks and that the first arms arrived in 2002 from Serbia.<sup>3629</sup> He claimed to have had no arms or ammunition prior to this date.

1254. Taylor’s claims to have had no weapons due to the disarmament and UN arms ban on Liberia began to unravel during his own testimony. This line of defence was apparently abandoned by the end of the Defence case, when a new contradictory theory was presented. Issa Sesay and DCT-008 claimed that the RUF did get its ammunition and arms, particularly those used in the 1998 offensive that led to the taking of Kono and Makeni and the invasion of Freetown, from Taylor’s forces.<sup>3630</sup> But the new claim presented through Sesay and DCT-008 was that these sales of weapons and ammunition were done by Taylor’s most trusted subordinate, Benjamin Yeaten, without the knowledge of Taylor. This claim that war materials were supplied to the RUF under Taylor’s nose without his knowledge is both implausible and incompatible with Taylor’s own claims that his forces had no arms or ammunition to give because of disarmament.

1255. Taylor falsely claimed that because of the UN weapons ban and disarmament, he had no weapons until 2002,<sup>3631</sup> although he subsequently changed that testimony to say the weapons arrived in 2001.<sup>3632</sup> His blatant lies on this point began to fall apart in his own direct examination when he testified he had routinely evaded weapons bans through bribery. Taylor testified that he had bought weapons even from ECOMOG commanders to use to kill other ECOMOG forces.<sup>3633</sup> He further said he had evaded weapons sanctions by paying bribes to foreign officials and named his Chief of

<sup>3626</sup> DCT-172, TT, 12 August 2010, p. 46149.

<sup>3627</sup> DCT-215, TT, 30 March 2010, p. 38260.

<sup>3628</sup> Accused, TT, 31 August 2009, p. 28072.

<sup>3629</sup> Accused, TT, 31 August 2009, p. 28072.

<sup>3630</sup> DCT-008, TT, 27 August 2010, pp. 47391-92. DCT-215 also confirmed that Daniel Tamba, “Jungle,” would bring ammunition from Liberia to the RUF (DCT, TT, 30 March 2010, p. 38260).

<sup>3631</sup> Accused, TT, 31 August 2009, p. 28074.

<sup>3632</sup> Accused, TT, 25 November 2009, p. 32497.

<sup>3633</sup> Accused, TT, 26 November 2009, pp. 32628-29.

Protocol, Musa Cisse, as one of those responsible for arranging the bribes.<sup>3634</sup> It is no coincidence that Taylor sent Musa Cisse to accompany Sam Bockarie to Burkina Faso in November 1998. It was on this trip that Bockarie received the ammunition that he needed to launch the late 1998 offensive in Sierra Leone and which enabled him to fulfil his very public threats to “kill and kill and kill.”<sup>3635</sup>

1256. The evidence shows that Taylor was continuing to arrange clandestine arms deals long before the weapons from Serbia began arriving in 2002. Paragraph 412 of the first report of the United Nations Panel of Experts for Liberia, Exhibit P-32, lists two transfers of funds from the Liberian International Ship and Corporate Registry (LISCR) to San Air General Trading in the United Arab Emirates for US\$525,000 on 21 June 2000 and US\$400,000 on 7 July 2000 (total \$925,000). The transfers were approved by Benoni Urey, the Maritime Commissioner, with Taylor’s permission.<sup>3636</sup>

1257. When LISCR then objected to these payments as violations of the agreed procedure, Urey then authorized three payments between 13 and 20 September 2000 totalling US\$548,000 to a San Air General Trading Account in the United Arab Emirates “via the account of S. Ruprah.”<sup>3637</sup> In addition, Urey issued a US\$200,000 cheque to “Sanjivan Ruprah” from the Bureau of Maritime Affairs account in Monrovia. Taylor acknowledged this was done with his approval.<sup>3638</sup> A further document, Exhibit P-482, shows that on 20 August 1999, the Liberian Ministry of Finance authorized “OTC,” the Oriental Timber Company managed by Gus Kouwenhoven, to transfer half a million United States dollars to Sanjivan Ruprah through a Swiss bank account.<sup>3639</sup> Taylor acknowledged this was done with his authority<sup>3640</sup> and admitted he had authorised Ruprah’s appointment as an Ambassador-at-Large for Liberia.<sup>3641</sup> Ruprah was an admitted arms dealer<sup>3642</sup> and an associate of Victor Bout.<sup>3643</sup> Taylor lied three times in

<sup>3634</sup> Accused, TT, 2 December 2009, p. 32910.

<sup>3635</sup> Taylor’s claim that he sent his Chief of Protocol along with Bockarie to act as a mere interpreter for Bockarie’s meetings with Blaise Compaoré is absurd. As a Chief of State, Taylor was aware that the protocol of such visits would mandate that the host government provide interpretation and Taylor knew Burkina Faso had English language interpreters as he himself had met with Compaoré. Also, the evidence shows that Eddie Kanneh and Lawrence Womandia, both French speakers, accompanied Bockarie on the trip.

<sup>3636</sup> Accused, TT, 27 January 2010, pp. 34226, 34231: “he acted with my authority.”

<sup>3637</sup> Exh. P-32, para. 416. Taylor acknowledged that Urey acted with his full authority in making these transfers. Accused, TT, 27 January 2010, p. 34231.

<sup>3638</sup> Exh. P-32, para. 417 and Accused, TT, 27 January 2010, p. 34235.

<sup>3639</sup> Exh. P-482.

<sup>3640</sup> Accused, TT, 27 January 2010, p. 34248.

<sup>3641</sup> Accused, TT, 27 January 2010, p. 34250.

<sup>3642</sup> See Exh. P-32, para. 208.



his direct examination by claiming he did not know Ruprah. On 9 November 2009, Ruprah was mentioned in a document Defence counsel was reading from, and Taylor was asked, "Who is he?" Although Taylor had appointed Ruprah Ambassador-at-Large for Liberia and authorized more than a million dollars transferred to him,<sup>3644</sup> Taylor told the Trial Chamber, "No, I don't know him."<sup>3645</sup>

1258. Taylor claimed in his own testimony that even his own security forces had no arms.<sup>3646</sup> However, his evidence was contradicted by the very next witness called by the Defence, Yanks Smythe, the former Assistant Director of Taylor's Special Security Service (SSS). A photograph was admitted into evidence as Exhibit D-106A which the witness said was taken on a visit to Gbarnga by Taylor in 1999 or 2000. Smythe is in the photograph in front of approximately twenty SSS personnel in uniforms with most of them holding clearly visible automatic weapons.<sup>3647</sup>

1259. Moreover, Taylor's own testimony discussed heavy fighting in Liberia in which Taylor's forces prevailed during the period when supposedly his forces were disarmed. Specifically, very heavy fighting took place in Monrovia in the days around the September 18, 1998 incident where Roosevelt Johnson took refuge in the United States Embassy. Further heavy fighting occurred in April and August 1999 when Lofa County was invaded by dissident forces coming from Guinea.

1260. Moreover, the evidence shows that Taylor arms deliveries were not limited to Sierra Leone. General Robert Guei told the UN Panel of Experts for Liberia that when he took power in the Ivory Coast in a coup in 1999 he received much-needed arms from Taylor and in return he was asked by the Liberian Ambassador-at-Large Mohamed Salame, to

<sup>3643</sup> Exh. P-32, paras. 22, 23, 183, 203, 204 and FN 3 on p. 64.

<sup>3644</sup> The \$500,000 transferred in 1999 from OTC, the \$200,000 check issued by Urey on 13 September 2000 and the \$548,000 three transfers from the Maritime agency between 13 and 20 September all in the name of Ruprah, totalling US\$1,248,000. This does not include the \$925,000 transferred to San Air by LISC.

<sup>3645</sup> Accused, TT, 9 November 2009, p. 31460. See also Accused, TT, 25 August 2009, p. 27685 and 26 August 2009, p. 27800. Exhibit D-402B states that Ruprah even had an office on the fourth floor of the Executive Mansion (Exh. D-402B, p. 0000202).

<sup>3646</sup> Accused, TT, 30 September 2009, p. 29992: "Well, listen guys, I didn't have any arms. How do I give people arms I do not have? March 1998? Where would Charles Taylor be getting arms from? Where, where, where? And that's why these witnesses, they are so - they forgot that Liberia was disarmed. That's why they have these witnesses lying. Because no one in his rightful mind would say that arms are coming from the Government of Liberia in 1988 or 1997 or 1999 if they knew that all of these arms were being kept by the United Nations. All they knew in their misfiguring here is that he's at got the arms, he's got the arms so he's sending them out. I have no arms, so how do I send arms out? I have no arms. My securities are not even armed. So where am I going to get these arms from to send? Where?"

<sup>3647</sup> Exh. D-106A, discussed by witness DCT-179, TT, 24 February 2010, pp. 35886-89.

sign an End User Certificate<sup>3648</sup> (unlike Liberia, the Ivory Coast was not then under an arms embargo). Paragraphs 207 through 223 of Exhibit P-32, the first UN Panel of Experts report for Liberia, details the extensive documentation the Panel collected about that arrangement which was intended and succeeded in part in bringing 113 tons of ammunition to Liberia. When confronted with Guei's statement in court, Taylor admitted that he did in fact send men with arms and ammunition to assist Guei after the 1999 coup. Yet according to what Taylor had testified to in his direct examination, this was still a time when Liberia had no arms or ammunition to give to anyone, as even his security had no arms.

1261. Taylor also claimed he was unable to supply the rebels in Sierra Leone with arms and ammunition because he did not have unhindered access to the border with Sierra Leone.<sup>3649</sup> However, documentary evidence explicitly shows that ECOMOG troops had insufficient manpower and resources to effectively fulfil their mandate.<sup>3650</sup> The limited numbers of UNOMIL military observers were even less able to guard the border of Liberia and Sierra Leone.<sup>3651</sup>

1262. From the beginning, Taylor resisted ECOMOG's presence in Liberia, threatening to attack if they came into the city.<sup>3652</sup> It was crucial for Taylor and his NPFL who now controlled most of the territory of Liberia that ECOMOG did not pose any hindrance, or be in a position to monitor his involvement with the rebels in Sierra Leone. Therefore from as early October 1991, he insisted ECOMOG forces downsize from 8,000 to

<sup>3648</sup> Exh. P-32, para. 216.

<sup>3649</sup> Accused, TTs, 16 November 2009, pp. 31752-54, 31762 & 21 January 2010, pp. 33799-00. He stated that ECOMOG (from September 1993, UNOMIL) was deployed in large numbers as many as 18,000 or 20,000 throughout the "length and breadth" of Liberia, and controlled entry on the Sierra Leone border – both before and after he took office.

<sup>3650</sup> Accused, TTs, 16 November 2009, pp. 31755-56 & 17 November 2009, p. 31927 & 21 January 2010, pp. 33806-07, 33820-34, 33845-46, 33857-67; Exhs. P-469; P-466; P-467; P-468: Despite 12,000 troops needed to carry out its mandate, ECOMOG as of October 1995 had only some 7269 troops deployed; Exh. P-470: by April 1996, ECOMOG strength up to 7,500 troops (but still under strength by several thousand); Exh. P-472 & D-385, p. 56, para 23: by November 1996, ECOMOG had only about 7500 troops—less than 12,000, the minimum pleaded for by ECOMOG commander of an optimum of 18,000 needed; Exh. P-473: From early 1997, ECOMOG remained at troop strength of only about 7500; Exh. P-474: By mid-March 1997, ECOMOG numbers up to 10,000; Exh. P-475: By June 1997, ECOMOG troop strength had moved up to 11,000 personnel.

<sup>3651</sup> Accused, TTs, 17 November 2009, p. 31921; & 20 January 2010, pp. 33790-94, & 21 January 2010, 33820-34, 33845-46, 33857-67; Exhs. P-464-66 & P-462C: In early January 1994, UNOMIL attained its total authorized strength of 368 military observers, including 20 medical and 45 engineering personnel; Exh. P-468: By mid-September 1995, only some 52 UNOMIL military observers deployed; Exh. P-469: by October 1995, Liberia had about 53 military observers; Exh. P-470: By April 1996, UNOMIL strength up to 93 military observers; Exh. P-472: about ten UNOMIL military observers in Liberia (much lower than the initial and revised 160); Exh. P-473: By the end of January 1997, UNOMIL strength increased to about 71 military observers; Exh. P-474: By March 1997, UNOMIL achieved full strength of 92 personnel.

<sup>3652</sup> Accused, TT, 16 July 2009, p. 24682.

1,500<sup>3653</sup> and restricted their freedom of movement throughout the country.<sup>3654</sup> By 1998 with Taylor installed as President, ECOMOG's presence was significantly reduced to about 800 troops and primarily stationed in Monrovia in a capacity-building role.<sup>3655</sup> Into 1999, this number was reduced to about 400-500.

1263. Taylor's claim that it would be impossible to supply arms and ammunition to the rebels from the beginning of the conflict in Sierra Leone because he did not have unhindered access to the border is baseless. Further, Zigzag Marzah testified that the NPFL would buy weapons from ECOMOG officers at Roberts International Airport in "black deals." Taylor himself corroborated Marzah when he testified he had indeed bought ammunition from ECOMOG in Liberia.<sup>3656</sup>

1264. While Taylor claimed that the RUF could have obtained some arms from other parties in Liberia without his involvement as it was impossible to control the border, his evidence was again contradicted by Issa Sesay, who testified that Taylor not only could but did in fact successfully close the border. Sesay said that when Taylor granted refuge to Bockarie and his soldiers in 1999, he closed the border to all RUF and that the only exception was when former NPFL commander and key liaison with the RUF, Ibrahim Bah, was allowed to pass through the border with equipment for increasing diamond mining production.<sup>3657</sup> This acknowledgment of Taylor's ability to seal the border confirms that arms and ammunition would not have been crossing Liberia's borders during Taylor's Presidency without his complicity.

#### Last Line of Defence: Challenging the Crime Base

1265. In the opening statement, the Defence criticized the Prosecution for bringing before the Trial Chamber those who were victims of the terror campaign in Sierra Leone. According to the Taylor Defence:

<sup>3653</sup> Accused, TTs, 16 November 2009, pp. 31769-70 & 21 January 2010, pp. 33804-06; Exh. P-461A; Exh. P-462A: Taylor admitted he asked on about 21 April 1992 at a national conference in Gbarnga for ECOMOG to be downsized; Exh. P-462D: In January 1994 meeting with ECOMOG force commander, General Inienger, Taylor once again demanded reduction of ECOMOG troops and heavy weapons.

<sup>3654</sup> Accused, TT, 16 November 2009, p. 31778; Exh. D-385, pp. 8-10; Exh. D-301, p. 159: On discovering an NPFL illegal arms cache, six ECOMOG soldiers were brutally executed by Taylor's NPFL in May 1992; Exh. P-463 A: By September 1992, Taylor's NPFL held several hundred ECOMOG hostages.

<sup>3655</sup> Accused, TT, 18 November 2009, pp. 31960-62 and 21 January 2010, pp. 33868-78; Exh. D-81: Taylor agreed by November 1998, there were in the neighbourhood of 800 ECOMOG stationed primarily in Monrovia and into 1999, about 400-500 remained in Liberia.

<sup>3656</sup> Accused, TT, 26 November 2009, pp. 32628-29.

<sup>3657</sup> DCT-172, TT, 14 July 2010, pp. 44464-65 and 11 August 2010, pp. 46003, 46024.

[W]e said this case should not have been about what happened in Sierra Leone; there was no issue about that. ... We consequently do not and never have taken issue with the fact that terrible things, atrocities, were committed in Sierra Leone. We've never done that. We still cannot therefore understand why more than half of the witnesses called were so-called crime base witnesses to prove a fact not in dispute.<sup>3658</sup>

1266. By the time Taylor finished testifying for seven months, it was clear that the Defence had not and could not prove what was promised in the opening statement, and the evidence of his links to the rebels had grown even more compelling. The Defence then changed strategies and spent a great deal of time and effort calling witnesses to contest exactly what the opening statement asserted was not in dispute—what happened in Sierra Leone. Specifically, despite all the victim testimony of mass killings, beheadings, burning people alive in houses, amputations, heads placed on sticks and bodies purposely left unburied, these Defence witnesses denied the campaign of terror existed. Many of these witnesses even denied the most obvious and notorious of RUF crimes, such as the use of child soldiers and the use of forced labour, especially in mining and looting. The Defence spent a great deal of time reading at length an RUF propaganda manifesto – “Footpaths to Democracy” – which, it turns out, was created by a former Taylor publicist<sup>3659</sup> and when published, Taylor summoned the external delegation to congratulate them for marketing the RUF and gave them 10,000,000 CFA.<sup>3660</sup>

1267. However, despite spending much time and effort during the 16-month long Defence case discussing what happened in Sierra Leone, the Defence efforts to paint a benign picture of the RUF failed entirely. Many of the Defence witnesses simply added further evidence of how the campaign was carried out and even more evidence was adduced of how terror was used to control and enslave the civilian population and even within the RUF to ensure loyalty to an organization that had no real ideological agenda.

1268. [REDACTED]

<sup>3658</sup> Accused, TT, 13 July 2009, pp. 24295-96.

<sup>3659</sup> See Exhibits P-523, P-524, P-525, P-526 and P-527.

<sup>3660</sup> DCT-306, TT, 12 April 2010, p. 39000.

[REDACTED]  
[REDACTED]<sup>3661</sup>

1269. TF1-068 talked about civilians being shot in Tongo Fields and explained it was part of an RUF policy that if civilians were caught without a pass in a “no-go” area they would be shot.<sup>3662</sup> Defence witnesses confirmed the Kailahun massacre in early 1998 happened exactly as described by TF1-406 and other Prosecution witnesses. TF1-306 described the terror as groups of these detainees were taken from cells for execution and how one man was even forced to kill his own father.<sup>3663</sup> Many witnesses had described that the town smelled of rotting bodies for weeks after the killing.<sup>3664</sup> DCT-172 explained that Sam Bockarie had ordered the RUF not to bury the bodies of the victims of the massacre.<sup>3665</sup>

1270. Defence witness John Vincent admitted that the RUF used terror even against its own members to keep control,<sup>3666</sup> testifying that some RUF were shot in the back during operations in order to disguise the execution as a death by enemy fire.<sup>3667</sup> Vincent testified that he feared Issa Sesay would order him killed in a manner to look like he had died in battle. He admitted that the RUF leadership used terror even against other RUF members.<sup>3668</sup> Vincent confirmed that Sam Bockarie, who Taylor did so much to promote, had buried a child alive.<sup>3669</sup>

1271. Defence witness Musa Fayia testified to the tortures inflicted upon himself and others who had wanted to replace Foday Sankoh due to his obstruction of the Abidjan peace process. Fayia testified to multiple horrific beatings inflicted upon him and the other delegates on the orders of Sam Bockarie and Issa Sesay,<sup>3670</sup> including an incident where they ordered an SLA soldier to beat the prisoners with a belt with a metal buckle until their shirts were dripping with blood.<sup>3671</sup> Fayia also testified to Issa Sesay ordering the beating to death of one prisoner, Mohamed Kamara.<sup>3672</sup>

<sup>3661</sup> [REDACTED]

<sup>3662</sup> DCT-068, TT, 11 March 2008, pp. 37143-44.

<sup>3663</sup> DCT-306, TT, 19 April 2010, pp. 39263-64.

<sup>3664</sup> DCT-068, TT, 11 March 2010, pp. 37093-95.

<sup>3665</sup> DCT-172, TT, 13 August 2010, pp. 46208-10.

<sup>3666</sup> DCT-215, TT, 31 March 2010, pp. 38364-65.

<sup>3667</sup> DCT-215, TT, 31 March 2010, pp. 38364-68.

<sup>3668</sup> DCT-215, TT, 31 March 2010, pp. 38364-65.

<sup>3669</sup> DCT-215, TT, 31 March 2010, p. 38363.

<sup>3670</sup> DCT-306, TT, 15 April 2010, pp. 39113-17.

<sup>3671</sup> DCT-306, TT, 15 April 2010, p. 39117.

<sup>3672</sup> DCT-306, TT, 15 April 2010, p. 39131.

1272. Defence witnesses also confirmed that the three RUF leaders Taylor dealt with—Sankoh, Bockarie and Sesay—were responsible for a horrendous killing spree at Luawa Geihun early in the war. As many as 200 people were executed, some by pouring boiling oil on their bodies.<sup>3673</sup> Although Sesay denied his own crimes including those for which he was convicted, he told the Court about crimes committed by all other members of the RUF high command, including Foday Sankoh,<sup>3674</sup> Sam Bockarie,<sup>3675</sup> Mike Lamin,<sup>3676</sup> Dennis Mingo,<sup>3677</sup> Isaac Mongor,<sup>3678</sup> and Gibril Massaquoi.<sup>3679</sup> Issa Sesay's denial of involvement in the Geihun killings - he claimed he was in the hospital with a wound to his buttock - was contradicted by three other Defence witnesses.<sup>3680</sup>

1273. Defence witnesses also confirmed that the RUF carried out the infamous Operation Stop Election, in which Foday Sankoh gave an order to amputate innocent civilians for exercising their right to vote.<sup>3681</sup> The campaign of amputations in early 1996, less than a year before the start of the Indictment period, demonstrated to the whole world the RUF's use of terror tactics against civilians.

#### The Defence Case in Retrospect

1274. An objective examination of the totality of the evidence leads to the conclusion that witnesses from the Defence case provided further corroboration of the Prosecution case. The evidence adduced in the Defence case showed Taylor's key role in the horrific crimes committed by his surrogates in Sierra Leone. Defence witnesses, while contradicting each other and contradicting Taylor, provided corroboration of key points in the Prosecution case. Taylor's own testimony was full of internal contradictions and was contradicted by his own witnesses. His testimony failed to hold up to scrutiny and it is clear he intentionally tried to mislead the court on key matters. None of this is due to any fault in the strategy or preparation of the Defence team. The Defence case fell apart because in a complicated case, full and careful consideration of evidence will lead

<sup>3673</sup> DCT-306, TT, 16 April 2010, pp. 39216-17 (agrees that up to 200 people executed in Geihun at the hands of Bockarie and Sesay).

<sup>3674</sup> DCT-292, TT, 16 August 2010, pp. 46298, 46315-16.

<sup>3675</sup> Sesay talked of many of Sam Bockarie's crimes including his involvement in Luawa Geihun and the Kailahun Massacre. See DCT-172, TT, 12 August 2010, pp. 46180-81, 46188-89.

<sup>3676</sup> DCT-292, TT, 16 August 2010, pp. 46316-17.

<sup>3677</sup> DCT-292, TT, 16 August 2010, p. 46316.

<sup>3678</sup> DCT-292, TT, 16 August 2010, pp. 46317-19.

<sup>3679</sup> DCT-292, TT, 16 August 2010, pp. 46319-20.

<sup>3680</sup> DCT-292, TT, 1 June 2010, p. 41825; DCT-306, TT, 19 April 2010, p. 39260; DCT-102, TT, 4 November 2010, pp. 48741-42. See also TF1-338, TT, 9 July 2008, p. 13280.

<sup>3681</sup> DCT-306, TT, 19 April 2010, pp. 39260-61; DCT-068, TT, 11 March 2010, p. 37084.

to discovery of the truth. The truth is clear from the examination of all the evidence. The evidence in this case shows that the RUF was a terrorist army created, supported and directed by Charles Taylor who, in truth, is the person most responsible for the crimes charged in this Indictment.

Filed in The Hague,

8 April 2011,

For the Prosecution,



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Brenda J. Hollis  
The Prosecutor

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**UNITED  
NATIONS**



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations of  
International Humanitarian Law  
Committed in the Territory of the  
Former Yugoslavia since 1991

Case No.: IT-99-37-AR72

Date: 21 May 2003

Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Mohamed Shahabuddeen, Presiding  
Judge Fausto Pocar  
Judge Claude Jorda  
Judge David Hunt  
Judge Asoka de Zoysa Gunawardana

**Registrar:** Mr Hans Holthuis

**Decision of:** 21 May 2003

**PROSECUTOR**

v

**MILAN MILUTINOVIĆ, NIKOLA ŠAINOVIĆ & DRAGOLJUB OJDANIĆ**

**DECISION ON DRAGOLJUB OJDANIĆ'S MOTION CHALLENGING JURISDICTION –  
*JOINT CRIMINAL ENTERPRISE***

**Counsel for the Prosecutor**  
Mr Norman Farrell

**Counsel for Dragoljub Ojdanić**  
Mr Tomislav Višnjić, Mr Vojislav Seležan and Mr Peter Robinson

### Procedural Background

1. Dragoljub Ojdanić ("Ojdanić") is charged pursuant to the Third Amended Indictment ("indictment")<sup>1</sup> with deportation (count 1<sup>2</sup>), other inhumane acts (count 2<sup>3</sup>), persecutions (counts 3<sup>4</sup>) and murder (count 4<sup>5</sup>). He is charged both as a superior pursuant to Article 7(3) of the Statute and for planning, instigating, ordering, committing and otherwise aiding and abetting in the planning, preparation or execution of those crimes, pursuant to Article 7(1).<sup>6</sup> The indictment alleges that his liability pursuant to Article 7(1) stems, *inter alia*, from his part in a joint criminal enterprise to commit those crimes.<sup>7</sup> The relevant paragraphs of the indictment are as follows:

16. Each of the accused is individually responsible for the crimes alleged against him in this indictment under Articles 3, 5 and 7(1) of the Statute of the Tribunal. The accused planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, or execution of these crimes. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that any of the accused physically perpetrated any of the crimes charged, personally. "Committing" in this indictment refers to participation in a joint criminal enterprise as a co-perpetrator. The purpose of this joint criminal enterprise was, *inter alia*, the expulsion of a substantial portion of the Kosovo Albanian population from the territory of the province of Kosovo in an effort to ensure continued Serbian control over the province. To fulfil this criminal purpose, each of the accused, acting individually or in concert with each other and with others known and unknown, significantly contributed to the joint criminal enterprise using the *de jure* and *de facto* powers available to him.

17. This joint criminal enterprise came into existence no later than October 1998 and continued throughout the time period when the crimes alleged in counts 1 to 5 of this indictment occurred: beginning on or about 1 January 1999 and continuing until 20 June 1999. A number of individuals participated in this joint criminal enterprise during the entire duration of its existence, or, alternatively, at different times during the duration of its existence, including **Slobodan MILOŠEVIĆ, Milan MILUTINOVIĆ, Nikola ŠAINOVIĆ, Dragoljub OJDANIĆ, Vljako STOJILJKOVIĆ** and others known and unknown.

18. The crimes enumerated in Counts 1 to 5 of this Indictment were within the object of the joint criminal enterprise. Alternatively, the crimes enumerated in Counts 3 to 5 were natural and foreseeable consequences of the joint criminal enterprise and the accused and others known and unknown were aware that such crimes were the likely outcome of the joint criminal enterprise. Despite their awareness of the foreseeable consequences, **Slobodan MILOŠEVIĆ, Milan MILUTINOVIĆ, Nikola ŠAINOVIĆ, Dragoljub OJDANIĆ, Vljako STOJILJKOVIĆ** and others known and unknown, knowingly and wilfully participated in the joint criminal enterprise. Each of the accused and other participants in the joint criminal enterprise shared the intent and state of mind required for the commission of each of the crimes charged in counts 1 to 5. On this basis, under Article 7(1) of the Statute, each of the accused and other participants in the joint criminal enterprise bear individual criminal responsibility for the crimes alleged in counts 1 to 5.

<sup>1</sup> IT-99-37-I, 5 September 2002.

<sup>2</sup> A crime against humanity under Article 5(d) of the Statute.

<sup>3</sup> As forcible transfer, a crime against humanity under Article 5(i) of the Statute.

<sup>4</sup> A crime against humanity under Article 5(h) of the Statute.

<sup>5</sup> A violation of the laws or customs of war under Article 3 of the Statute.

<sup>6</sup> Indictment, pars 16-52.

<sup>7</sup> Indictment, pars 16-18.



2. On 29 November 2002, Ojdanić filed a preliminary motion before Trial Chamber III to dismiss the indictment for lack of jurisdiction in relation to charges based on his liability as a participant in a joint criminal enterprise.<sup>8</sup> On 13 December 2002,<sup>9</sup> the Prosecution responded to his motion and, on 6 January 2003, Ojdanić replied.<sup>10</sup>

3. On 13 February 2003, Trial Chamber III rendered its decision whereby it dismissed Ojdanić's motion.<sup>11</sup> The Trial Chamber held that the Appeals Chamber had determined that participation in a joint criminal enterprise was a mode of liability which applied to any crime within the Tribunal's jurisdiction *ratione materiae*.<sup>12</sup> It further stated that the Appeals Chamber had defined, in accordance with the *nullum crimen sine lege* principle, the constitutive elements of such a form of liability and it said that the Appeals Chamber had clearly distinguished that form of liability from other forms of liability such as conspiracy and membership of criminal organisation.<sup>13</sup>

4. On 28 February 2003, Ojdanić appealed against that decision.<sup>14</sup> On 10 March 2003,<sup>15</sup> the Prosecution responded and, on 13 March 2003, Ojdanić replied.<sup>16</sup>

5. On 25 March 2003, pursuant to Rules 72(B)(i) and 72(E), a Bench of the Appeals Chamber, which had been assigned by the President to this case,<sup>17</sup> declared that Ojdanić's appeal had been validly filed insofar as it is challenging the jurisdiction of the Tribunal in relation to his individual criminal responsibility for his alleged participation in a joint criminal enterprise charged pursuant to Article 7(1) of the Statute.<sup>18</sup> The Bench held that Article 72(D) of the Statute provides that a motion challenging jurisdiction includes motions challenging an indictment on the ground that it

<sup>8</sup> General Dragoljub Ojdanić's Preliminary Motion to Dismiss for Lack of Jurisdiction: *Joint Criminal Enterprise*.

<sup>9</sup> Prosecution's Response to "Dragoljub Ojdanić's Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise" of 29 November 2002.

<sup>10</sup> Reply Brief: Preliminary Motion to Dismiss for Lack of Jurisdiction: *Joint Criminal Enterprise*. On 9 January, the Prosecution filed a "Prosecution's Notification in relation to Ojdanić's Reply Briefs to his Preliminary Motions to Dismiss for Lack of Jurisdiction: Kosovo and Joint Criminal Enterprise" pointing out that Ojdanić's Reply had been filed out of time.

<sup>11</sup> Decision on Dragoljub Ojdanić's Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise ("Impugned Decision").

<sup>12</sup> Ibid, p 6. The decisions of the Appeals Chamber to which reference was made by the Trial Chamber are as follows: *Prosecutor v Tadić*, Case No IT-94-1-A, Judgement, 15 July 1999 ("*Tadić* Appeal Judgment"), pars 185 *et seq*; *Prosecutor v Furundžija*, Case No IT-95-17/1-A, Judgement, 21 July 2000, pars 118-120 ("*Furundžija* Appeal Judgment"); *Prosecutor v Delalić et al*, Case IT-96-21-A, Judgement, 20 February 2001, pars 365-366 ("*Delalić* Appeal Judgment").

<sup>13</sup> Impugned Decision, pp 6-7.

<sup>14</sup> General Ojdanić's Appeal from Denial of Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise ("Ojdanić's Appeal").

<sup>15</sup> Prosecution's Response to "General Ojdanić's Appeal from Denial of Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise" ("Prosecution's Response").

<sup>16</sup> Reply Brief: "General Ojdanić's Appeal from Denial of Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise" ("Reply").

<sup>17</sup> Ordonnance du Président Portant Nomination de Juges à un Collège de la Chambre d'Appel, 6 March 2003.

<sup>18</sup> Decision Pursuant to Rule 72(E) as to Validity of Appeal ("Bench Decision").

does not relate to any of the persons indicated in Article 7 or any of the violations indicated in Article 7.

### **Prosecution's general observations and standard of review**

6. In its Response, the Prosecution raised a number of issues relating to the standard of review on appeal.<sup>19</sup> The Appeals Chamber does not propose to deal with these issues as they do not need to be discussed in the present case, other than to dismiss one submission made by the Prosecution. The Prosecution claims that, because the Trial Chamber found that the relief sought by the Defence was "inappropriate",<sup>20</sup> the present appeal could be rejected *in limine*.<sup>21</sup> All the Trial Chamber said in its Decision was that, since the indictment pleads several heads of responsibility, the general dismissal of the indictment sought by the Defence on the particular point relating to joint criminal enterprise was inappropriate. The Trial Chamber's finding on that point was limited to the dismissal of the indictment insofar as it related to that particular point.<sup>22</sup> As pointed out by the Bench of this Appeals Chamber, if Ojdanić's submissions are correct, there would be no legal basis upon the facts pleaded in the indictment in relation to a joint criminal enterprise to hold him responsible pursuant to Article 7(1) on that basis.<sup>23</sup> That part of the indictment relating to joint criminal enterprise liability would therefore have to be struck out. The indictment would continue to be valid in relation to other heads of responsibility.

7. Standards of review on appeal have been stated repeatedly by this Chamber and need not be re-iterated here.<sup>24</sup>

### **Ojdanić's grounds of appeal**

8. Ojdanić lists a number of complaints, which are essentially a re-iteration of arguments which he put before the Trial Chamber.<sup>25</sup> They may be classified as follows:

- Joint criminal enterprise liability does not come within the International Tribunal's jurisdiction;
- Even if it did, the form of joint criminal enterprise charged in the indictment would go beyond the scope of joint criminal enterprise as set out by the Appeals Chamber in the *Tadić* case;

<sup>19</sup> Prosecution's Response, pars 5 *et seq.*

<sup>20</sup> Impugned Decision, p 6.

<sup>21</sup> The Prosecution claims that the Appeals Chamber should do so "because the alleged errors of law committed by the Trial Chamber fall outside the scope of Art. 25 of the Statute" (Prosecution's Response, par 6).

<sup>22</sup> See Ojdanić's Appeal, par 6, footnote 4, quoting from the Reply brief before the Trial Chamber at footnote 1.

<sup>23</sup> Decision Pursuant to Rule 72(E) as to Validity of Appeal, p 3.

<sup>24</sup> See, e.g., *Prosecutor v Kunarac et al*, Case IT-96-23 & IT-96-23/1-A, Judgement, 12 June 2002, pars 35 *et seq.*, and references quoted therein.

<sup>25</sup> See Ojdanić's Appeal, Table of contents, page 2.

- Finally, if this form of liability were to apply to Ojdanić, it would infringe the principle *nullum crimen sine lege*.

Each point will be addressed in turn, but the Appeals Chamber will first consider the scope of its jurisdiction as far as individual criminal liability is concerned.

### **Scope of the jurisdiction *ratione personae* of the International Tribunal**

9. In his Report to the Security Council, the Secretary-General of the United Nations proposed that the International Tribunal shall apply, as far as crimes within its jurisdiction are concerned, rules of international humanitarian law which are "beyond any doubt part of customary international law".<sup>26</sup> The fact that an offence is listed in the Statute does not therefore create new law and the Tribunal only has jurisdiction over a listed crime if that crime was recognised as such under customary international law at the time it was allegedly committed.<sup>27</sup> The scope of the Tribunal's jurisdiction *ratione materiae* may therefore be said to be determined both by the Statute, insofar as it sets out the jurisdictional framework of the International Tribunal, and by customary international law, insofar as the Tribunal's power to convict an accused of any crime listed in the Statute depends on its existence *qua* custom at the time this crime was allegedly committed.<sup>28</sup>

10. As far as the jurisdiction *ratione personae* of the Tribunal is concerned, the Secretary-General's Report does not contain any explicit limitation as to the nature of the law which the Tribunal may apply, other than a statement apparently of general application to the effect that "the International Tribunal would have the task of applying existing international humanitarian law".<sup>29</sup> Contrary to the Defence submission on that point,<sup>30</sup> there is no reference in the Report of the Secretary-General limiting the jurisdiction *ratione personae* of the International Tribunal to forms of liability as provided by customary law.<sup>31</sup> However, the principle of legality demands that the Tribunal shall apply the law which was binding upon individuals at the time of the acts charged. And, just as is the case in respect of the Tribunal's jurisdiction *ratione materiae*, that body of law must be reflected in customary international law.

<sup>26</sup> Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808 (1993), ("Secretary-General's Report"), par 34.

<sup>27</sup> See Secretary-General's Report, par 29.

<sup>28</sup> See, for instance, treatment of "violence to life and person" in the Vasiljević Trial Judgment (*Prosecutor v Vasiljević*, Case No. IT98-32-T, Judgment, 29 November 2002, pars 193 *et seq.*). This matter has not been appealed by either party.

<sup>29</sup> Secretary-General's Report, par 29.

<sup>30</sup> Ojdanić's Appeal, pars 26-29. The comment cited by the Defence at par 29 of its Appeal was made by the Secretary-General in relation to the Tribunal's jurisdiction *ratione materiae*, not its jurisdiction *ratione personae*.

<sup>31</sup> See Secretary-General's Report, pars 50-59.

11. What must therefore be established in the present case is whether, at the time the acts were allegedly committed (from “on or about 1 January 1999 [...] until 20 June 1999”<sup>32</sup>), joint criminal enterprise as a form of liability existed under customary international law.

**Does the Statute provide for joint criminal enterprise liability ?**

12. Article 7(1) of the Statute contemplates various forms of individual criminal responsibility which apply to all crimes which are within the Tribunal’s jurisdiction. It provides as follows:

**Article 7  
Individual criminal responsibility**

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

13. This provision contains a list of forms of criminal participation which, all other conditions being met, could entail the criminal responsibility of the accused if he or she were to commit any of the crimes provided for in the Statute in any of the ways contemplated by that article. Article 7(1) does not contain an explicit reference to “joint criminal enterprise”. Whether or not that list is exhaustive was not addressed specifically by the Defence. The Defence only claims that that provision does not provide for joint criminal enterprise as a form of criminal liability<sup>33</sup> and that other international instruments, such as the Rome Statute of the International Criminal Court, provided for joint criminal enterprise explicitly when it was intended to be included.<sup>34</sup> Had the drafters intended to include such a form of liability for all crimes within the Tribunal’s Statute, the Defence says, the drafters would have done so explicitly.<sup>35</sup>

14. In addition, the Defence claims that this specific form of liability was not contemplated by the drafters of the Tribunal’s Statute. The Defence submits that the suggestions made by several member states of the Security Council at the time of the adoption of the Tribunal’s Statute that it should include “conspiracy” as a form of criminal liability was rejected.<sup>36</sup> “Conspiracy”, the Defence claims, “is precisely the basis of liability for joint criminal enterprise”.<sup>37</sup> The Defence says that, where they intended to include “conspiracy” as a form of liability, the drafters did so

<sup>32</sup> Indictment, par 53.

<sup>33</sup> Ojdanić’s Appeal, pars 12-17.

<sup>34</sup> Ibid., par 14-16.

<sup>35</sup> Ojdanić’s Appeal, par 30.

<sup>36</sup> Ojdanić’s Appeal, par 20.

<sup>37</sup> Ojdanić’s Appeal, par 21.

expressly, as for instance in Article 4(3)(b) of the Statute concerning "conspiracy to commit genocide".<sup>38</sup>

15. In response, the Prosecution submits that joint criminal enterprise is provided for both in the Statute and under customary international law.<sup>39</sup> It also says that joint criminal liability is different from both "conspiracy" and membership in a criminal organization and, contrary to both of them, it is a punishable mode of participation in the actual commission of crimes.<sup>40</sup> Conspiracy, the Prosecution says, is a mere agreement or understanding between two or more persons to commit a crime, whilst membership in a criminal organization implies the existence of a stable organizational structure directed at the commission of crimes, irrespective of the actual commission of any such crime.<sup>41</sup> The Prosecution submits further that, individual liability for participation in a joint criminal enterprise arises from "a significant contribution to the execution of a common plan that either entails the commission of a crime, or leads to the commission of a crime, as its natural and foreseeable consequence".<sup>42</sup>

16. As pointed out by the Prosecution, the Appeals Chamber has already had an opportunity to consider this matter in other cases. In the *Tadić* case, the Prosecution had argued on appeal that the Trial Chamber had misdirected itself in the application of the common purpose doctrine.<sup>43</sup> The Prosecution submitted then that the gist of this doctrine is that if a person knowingly participates in a criminal activity with others, he or she will be liable for all illegal acts that are natural and probable consequences of that common purpose.<sup>44</sup> In view of the evidence, the Prosecution claimed that the only conclusion reasonably open to the Trial Chamber was that the killing of the five victims was a natural and probable consequence of the attack on the villages of Sivci and Jaskići in which the accused had taken part.<sup>45</sup>

17. In response, the Defence for the accused Duško Tadić did not challenge the existence of this form of liability or its presence under Article 7(1) of the Statute. It submitted, however, that a conviction on that basis would require the Prosecution to establish that the common purpose in which the Appellant is said to have taken part included killing as opposed to ethnic cleansing by other means.<sup>46</sup> Having considered the matter, the Appeals Chamber came to the conclusion that

<sup>38</sup> Ojdanić's Appeal, par 22.

<sup>39</sup> Prosecution's Response, pars 36-38. In support of its point, the Prosecution undertook a review of a number of domestic jurisdictions and international cases (see pars 44-45).

<sup>40</sup> Prosecution's Response, pars 14-16.

<sup>41</sup> Prosecution's Response, pars 14-15, 25-26.

<sup>42</sup> Prosecution's Response, par 16.

<sup>43</sup> *Tadić* Appeal Judgment, par 173.

<sup>44</sup> *Tadić* Appeal Judgment, par 175.

<sup>45</sup> Ibid.

<sup>46</sup> *Tadić* Appeal Judgment, par 177.

joint criminal enterprise or the common purpose doctrine, as it called it, was provided for in the Statute as a form of liability and that it existed under customary international law at the relevant time (i.e., 1992).<sup>47</sup> The submission by the Defence in the present case that the Appeals Chamber's statement on that point was *obiter dicta* insofar as it went "far beyond that which was necessary to reinstate Tadić's conviction"<sup>48</sup> is incorrect, as it is every Chamber's duty to ascertain that a crime or a form of liability charged in the indictment is both provided for under the Statute and that it existed at the relevant time under customary international law.<sup>49</sup> In the *Tadić* appeal, as pointed out above, the meaning and scope of joint criminal enterprise under the Statute and under customary law was litigated by the parties and joint criminal enterprise in fact formed the *sole* legal basis upon which the Appeals Chamber convicted Tadić.

17. In the *Čelebići* case, the Appeals Chamber interpreted the Prosecution's submissions as suggesting that the Trial Chamber's findings concerning the actions of Hazim Delić should have led to his being convicted under the doctrine of common criminal purpose or joint criminal enterprise.<sup>50</sup> The Appeals Chamber held that it was not satisfied, in that case, that the elements required by that form of criminal liability had been established by the Prosecution beyond reasonable doubt.<sup>51</sup> Finally, in *Furundžija*, the accused Anto Furundžija claimed in his appeal that in order to sustain his conviction as a co-perpetrator of torture, it should have been proved that there was a "direct connection" between his questioning of the victim and the infliction on her of severe pain or suffering.<sup>52</sup> He also submitted that "[w]hat is missing in this case is any allegation or proof that [his participation] in any crime, i.e., intentionally acted *in concert with* Accused B in questioning Witness A", and that there was no such allegation contained in the indictment against him, nor was proof offered at the trial in this regard.<sup>53</sup> The Appeals Chamber said that it had identified in the *Tadić* Appeal Judgment the legal elements of co-perpetration in a joint criminal enterprise, and it referred to the definitions of these elements, in particular to the requirement that there must exist a plan, design or purpose underlying the joint criminal enterprise.<sup>54</sup> The conviction based on the joint criminal enterprise charges stood.

<sup>47</sup> *Tadić* Appeal Judgment, pars 220 and 226.

<sup>48</sup> Ojdanić's Appeal, par 37.

<sup>49</sup> See *Vasiljević* Trial Judgment, par 198, which provides that "Each Trial Chamber is thus obliged to ensure that the law which it applies to a given criminal offence is indeed customary". See also *Delalić* Appeal Judgment, par 170, where the Appeals Chamber said that the Tribunal has jurisdiction over crimes which were already subject to individual criminal responsibility prior to its establishment.

<sup>50</sup> *Delalić* Appeal Judgment, par 365.

<sup>51</sup> *Delalić* Appeal Judgment, par 366.

<sup>52</sup> *Furundžija* Appeal Judgment, par 115.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Furundžija* Appeal Judgment, par 119.

18. The appellant in this case has advanced no cogent reason why the Appeals Chamber should come to a different conclusion than the one it reached in the *Tadić* case, namely, that joint criminal enterprise was provided for in the Statute of the Tribunal and that it existed under customary international law at the relevant time. The Defence's first contention is that the Appeals Chamber misinterpreted the drafters' intention as, it claims, they would have referred to joint criminal enterprise explicitly had they intended to include such a form of liability within the Tribunal's jurisdiction. As pointed out above, the Statute of the International Tribunal sets the framework within which the Tribunal may exercise its jurisdiction. A crime or a form of liability which is not provided for in the Statute could not form the basis of a conviction before this Tribunal.<sup>55</sup> The reference to that crime or to that form of liability does not need, however, to be explicit to come within the purview of the Tribunal's jurisdiction.<sup>56</sup> The Statute of the ICTY is not and does not purport to be, unlike for instance the Rome Statute of the International Criminal Court, a meticulously detailed code providing explicitly for every possible scenario and every solution thereto. It sets out in somewhat general terms the jurisdictional framework within which the Tribunal has been mandated to operate.

19. As noted in the *Tadić* Appeal Judgment, the Secretary-General's Report provided that "all persons" who participate in the planning, preparation or execution of serious violations of international humanitarian law contribute to the commission of the violation and are therefore individually responsible.<sup>57</sup> Also, and on its face, the list in Article 7(1) appears to be non-exhaustive in nature as the use of the phrase "*or otherwise aided and abetted*" suggests. But the Appeals Chamber does not need to consider whether, outside those forms of liability expressly mentioned in the Statute, other forms of liability could come within Article 7(1). It is indeed satisfied that joint criminal enterprise comes within the terms of that provision.

20. In the present case, Ojdanić is charged as a co-perpetrator in a joint criminal enterprise the purpose of which was, *inter alia*, the expulsion of a substantial portion of the Kosovo Albanian population from the territory of the province of Kosovo in an effort to ensure continued Serbian control over the province.<sup>58</sup> The Prosecution pointed out in its indictment against Ojdanić that its use of the word "committed" was not intended to suggest that any of the accused physically perpetrated any of the crimes charged, personally. "Committing", the Prosecution wrote, "refers to

<sup>55</sup> The defence correctly refers to the example of the crime of piracy (Ojdanić's Appeal, par 43).

<sup>56</sup> The Tribunal has accepted, for instance, that Article 3 of the Statute was a residual clause and that crimes which are not explicitly listed in Article 3 of the Statute could nevertheless form part of the Tribunal's jurisdiction (ref to *Tadić*).

<sup>57</sup> *Tadić* Appeal Judgment, par 190, citing Secretary-General's Report, par 54.

<sup>58</sup> Indictment, par 16.

participation in a joint criminal enterprise as a co-perpetrator”.<sup>59</sup> Leaving aside the appropriateness of the use of the expression “co-perpetration” in such a context, it would seem therefore that the Prosecution charges co-perpetration in a joint criminal enterprise as a form of “commission” pursuant to Article 7(1) of the Statute, rather than as a form of accomplice liability. The Prosecution’s approach is correct to the extent that, insofar as a participant shares the purpose of the joint criminal enterprise (as he or she must do) as opposed to merely knowing about it, he or she cannot be regarded as a mere aider and abettor to the crime which is contemplated. The Appeals Chamber therefore regards joint criminal enterprise as a form of “commission” pursuant to Article 7(1) of the Statute.

21. The Defence suggests that the *Tadić* interpretation of Article 7(1) means that all modes of liability not specifically excluded by the Statute are included therein.<sup>60</sup> It is not necessary to deal with so wide an argument. The Appeals Chamber was satisfied then, and is still satisfied now, that the Statute provides, albeit not explicitly, for joint criminal enterprise as a form of criminal liability and that its elements are based on customary law. In order to come within the Tribunal’s jurisdiction *ratione personae*, any form of liability must satisfy three pre-conditions: (i) it must be provided for in the Statute, explicitly or implicitly; (ii) it must have existed under customary international law at the relevant time; (iii) the law providing for that form of liability must have been sufficiently accessible at the relevant time to anyone who acted in such a way; and (iv) such person must have been able to foresee that he could be held criminally liable for his actions if apprehended.

22. The analogy made by the Defence between the present situation and the rejection by the International Military Tribunal (“IMT”) in Nuremberg of the common plan or conspiracy doctrine in relation to war crimes and crimes against humanity is indeed relevant to this case, although not for the reason suggested by the Defence.<sup>61</sup> The IMT noted that the indictment charged not only conspiracy to commit aggressive war, but also to commit war crimes and crimes against humanity.<sup>62</sup> The IMT pointed out that the Charter did not define as a separate crime any conspiracy except the one to commit acts of aggressive war and it therefore disregarded the charges in Count One of the indictment that the defendants had conspired to commit war crimes and crimes against humanity.<sup>63</sup> As pointed out above, the same logic applies in the context of this Tribunal. One Trial Chamber,

<sup>59</sup> Indictment, par 16.

<sup>60</sup> Ojdanić’s Appeal, par 39. This, the Defence said, “flies in the face of rules of statutory interpretation and the cautious approach to interpretation of liability for crimes set forth in the Report of the Secretary General” (ibid).

<sup>61</sup> Ojdanić’s Appeal, pars 24-25

<sup>62</sup> *Trial of the Major War Criminals before the International Military Tribunal*, Nuremberg, 14 November 1945 – 1 October 1946, Vol I, p 226 (“IMT Judgment”).

<sup>63</sup> Ibid.



for instance, correctly noted that, if it were not satisfied that a given crime was provided for in its Statute, as the IMT had been in relation to conspiracy to commit war crimes and crimes against humanity, this Tribunal would have no choice but to decline to exercise its jurisdiction over such a crime.<sup>64</sup> Unless it is satisfied that a principle of liability is included in the Statute, the Tribunal would not exercise its jurisdiction on the basis of that principle.

23. The Defence's argument that the drafters' exclusion of "conspiracy" from the Statute is evidence that joint criminal enterprise has also been excluded is likewise misguided. Joint criminal enterprise and "conspiracy" are two different forms of liability. Whilst conspiracy requires a showing that several individuals have agreed to commit a certain crime or set of crimes, a joint criminal enterprise requires, in addition to such a showing, that the parties to that agreement took action in furtherance of that agreement.<sup>65</sup> In other words, while mere agreement is sufficient in the case of conspiracy, the liability of a member of a joint criminal enterprise will depend on the commission of criminal acts in furtherance of that enterprise. Thus, even if it were conceded that conspiracy was excluded from the realm of the Tribunal's Statute, that would have no impact on the presence of joint criminal enterprise as a form of "commission" pursuant to Article 7(1) of the Statute.

24. The Defence also claims that joint criminal enterprise is akin to a form of criminal liability for membership and that it has become a "vehicle for organizational liability", whereby mere membership in a criminal organization would by itself entail the individual criminal responsibility of the accused.<sup>66</sup> Under such a form of liability, Ojdanić is exposed to being held liable for his membership in an organisation some members of which may have committed crimes he should have foreseen, the Defence suggests.<sup>67</sup> The Defence says that this is precisely the form of organizational – as opposed to individual – liability that the Security Council eschewed when adopting the Tribunal's Statute.<sup>68</sup>

25. Joint criminal enterprise is different from membership of a criminal enterprise which was criminalised as a separate criminal offence in Nuremberg and in subsequent trials held under Control Council Law No 10.<sup>69</sup> As pointed out by the *United Nations War Crimes Commission*,

<sup>64</sup> *Vasiljević Trial Judgment*, par 202. This finding was not appealed by either party.

<sup>65</sup> *XV Law Reports of Trials of War Criminals*, pp 95 and 97. According to the United Nations War Crimes Commission, "the difference between a charge of conspiracy and one of acting in pursuant of a common design is that the first would claim that an agreement to commit offences had been made while the second would allege not only the making of an agreement but the performance of acts pursuant to it." (ibid, pp 97-98).

<sup>66</sup> Ojdanić's Appeal, pars 59-63.

<sup>67</sup> Ojdanić's Appeal, par 65.

<sup>68</sup> Ojdanić's Appeal, par 65.

<sup>69</sup> Article 10 of the Nuremberg Charter provided for this possibility: "In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring

what was to be punished in relation to the latter was “no mere conspiracy to commit crimes but a knowing and voluntary membership of organisations which did in fact commit crimes, and those on a wide scale”.<sup>70</sup> No such offence was included in the Tribunal’s Statute. The Secretary-General made it clear that only natural persons (as opposed to juridical entities) were liable under the Tribunal’s Statute,<sup>71</sup> and that mere membership in a given criminal organization would not be sufficient to establish individual criminal responsibility:

The question arises, however, whether a juridical person, such as an association or organization, may be considered criminal as such and thus its members, for that reason alone, be made subject to the jurisdiction of the International Tribunal. The Secretary-General believes that this concept should not be retained in regard to the International Tribunal. The criminal acts set out in this Statute are carried out by natural persons; such persons would be subject to the jurisdiction of the International Tribunal irrespective of membership in groups.<sup>72</sup>

26. Criminal liability pursuant to a joint criminal enterprise is not a liability for mere membership or for conspiring to commit crimes, but a form of liability concerned with the participation in the commission of a crime as part of a joint criminal enterprise, a different matter. The Prosecution in the present case made that point clear when it said that Ojdanić was being charged not for his membership in a joint criminal enterprise but for his part in carrying it out.<sup>73</sup> The indictment talks of his “having significantly contributed” to the execution of the joint criminal enterprise by “using the *de jure* and *de facto* powers available to him”.<sup>74</sup>

27. The Defence claims further that, if the Tribunal were to read joint criminal enterprise liability into the Statute, it would thereby be violating the principle *in dubio pro reo*, which provides that, in case of doubt as to the content or meaning of a rule, the interpretation most favourable to the accused should be adopted.<sup>75</sup> Ojdanić contends that the application of that principle “would result in restricting the statute to the plain meaning of its terms, and requires that the indictment based upon joint criminal enterprise liability be dismissed”.<sup>76</sup> In response, the Prosecution says that this

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individual [sic] to trial for membership therein before national, military or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned.” Article 6(1) of the Nuremberg Charter stated that “[t]he Tribunal . . . shall have the power to try and punish persons who, acting in the interest of the European Axis countries, *whether as individuals or as members of organizations*, committed any of the following crimes” (emphasis added). Article 11(1)(d) of Control Council Law No 10 provided that “1. Each of the following acts is recognized as a crime: [...] (d) membership in categories of a criminal group or organization declared criminal by the International Military Tribunal”.

<sup>70</sup> XV *Law Reports of Trials of War Criminals*, pp 98-99.

<sup>71</sup> Par 50 of the Secretary-General’s Report.

<sup>72</sup> Par 51 of the Secretary-General’s Report.

<sup>73</sup> Prosecution’s Response, par 34.

<sup>74</sup> Indictment, par 16.

<sup>75</sup> Ojdanić’s Appeal, par 31.

<sup>76</sup> Ojdanić’s Appeal, par 34.

principle (*in dubio pro reo*) only applies “where the canons of construction fail to resolve a reasonable doubt in the meaning of a criminal statute”.<sup>77</sup>

28. The Appeals Chamber is not satisfied that the present matter mandates the application of this principle of interpretation. The interpretation of Article 7(1) given by the Appeals Chamber in *Tadić*, and the comments made above, simply leave no room for it.<sup>78</sup> Insofar as concerns the question whether joint criminal enterprise is recognised in customary international law, the Appeals Chamber has no doubt that the application of the principle *in dubio pro reo* could help to resolve.

29. Finally, the Defence claims that the Appeals Chamber’s finding is, in any case, inconsistent with existing customary law, as existing state practice is too weak to give rise to such a rule.<sup>79</sup> The Appeals Chamber does not propose to revisit its finding in *Tadić* concerning the customary status of this form of liability. It is satisfied that the state practice and *opinio juris* reviewed in that decision was sufficient to permit the conclusion that such a norm existed under customary international law in 1992 when *Tadić* committed the crimes for which he had been charged and for which he was eventually convicted.

30. In sum, the Defence has failed to show that there are cogent reasons in the interests of justice<sup>80</sup> for the Appeals Chamber to depart from its finding in the *Tadić* case, that joint criminal enterprise was both provided for in the Statute and that it existed under customary international law was in any way unreasonable at the relevant time. This part of the appeal is therefore rejected.

#### **Meaning and scope of joint criminal enterprise liability charged against Ojdanić**

31. The Defence next submits that the Trial Chamber in this case should not have considered itself to be bound by decisions rendered on this issue by the Appeals Chamber in three successive cases – *Tadić*, *Delalić* and *Furundžija* – as, it claims, these decisions do not provide much guidance on this matter.<sup>81</sup> According to the Defence, the pronouncements in both *Delalić* and *Furundžija* constitute an “unremarkable holding of accomplice liability” which does not support joint criminal enterprise liability by virtue of membership in an organisation with a criminal purpose as alleged in the indictment against him.<sup>82</sup> The Appeals Chamber has already pointed out above that joint criminal enterprise is to be regarded, not as a form of accomplice liability, but as a form of “commission” and that liability stems not, as claimed by the Defence, from mere membership of an

<sup>77</sup> Prosecution’s Response, par 49, citing *Delalić* Trial Judgment, par 413.

<sup>78</sup> Prosecution’s Response, par 49.

<sup>79</sup> Ojdanić’s Appeal, pars 44-52.

<sup>80</sup> *Delalić* Appeal Judgment, par 26.

<sup>81</sup> Ojdanić’s Appeal, par 54.

<sup>82</sup> Ojdanić’s Appeal, pars 54-58.

organisation, but from participating in the commission of a crime as part of a criminal enterprise. And, as far as they provided guidance upon matters relevant to the Trial Chamber's decision, the *ratio decidendi* of the Appeals Chamber's judgments was in fact binding upon the Trial Chamber.<sup>83</sup>

32. Even if the Appeals Chamber in this case declines to revisit the *Tadić* decision, the Defence submits, it should hold that the concept of joint criminal enterprise as developed by later Trial Chambers and the Prosecutor in the present case, expands liability beyond the permitted scope of common purpose doctrine and "into the forbidden realm of organizational liability".<sup>84</sup>

33. As pointed out by the Bench of the Appeals Chamber, this indictment alleges that the crimes mentioned above and charged against Ojdanić were within the object of the joint criminal enterprise or, alternatively, that the offences of murder and persecutions were natural and foreseeable consequences of the joint criminal enterprise and that Ojdanić was aware that such crimes were the likely outcome of the joint criminal enterprise.<sup>85</sup> This description of Ojdanić's actions, as alleged in the indictment, falls squarely within the definition of joint criminal enterprise given by the Appeals Chamber in *Tadić*.<sup>86</sup> The Prosecution may not be said to have gone beyond the realm of the *Tadić* decision and the Defence's submission on that point is rejected.

**Does the inclusion of joint criminal liability in the Statute of the International Tribunal  
infringe the principle *nullum crimen sine lege* ?**

34. Ojdanić finally submits that the doctrine of joint criminal enterprise should not be applied in his case for yet another reason. Applying this doctrine to him, he says, would infringe the principle *nullum crimen sine lege*, insofar as it would mean applying law which was created after the acts for which he is charged.<sup>87</sup> The Defence claims that the common purpose doctrine as laid down in the *Tadić* Judgment was only created on 15 July 1999 – after the acts charged in the indictment – and that the concept of joint criminal enterprise did not enter the Tribunal's jurisprudence until the *Krstić* Trial Judgment.<sup>88</sup>

35. In response, the Prosecution submits that "common purpose" and "joint criminal enterprise" are interchangeable terms which apply to a form of liability recognised under Article 7(1) of the

<sup>83</sup> *Prosecutor v Aleksovski*, Case No IT-95-14/1-A, Judgment, 24 March 2000, par 113.

<sup>84</sup> Ojdanić's Appeal, par 66.

<sup>85</sup> Bench Decision, page 2.

<sup>86</sup> *Tadić* Appeal Judgment, pars 220, 227-228.

<sup>87</sup> Ojdanić's Appeal, pars 67-70.

<sup>88</sup> Ojdanić's Appeal, par 67.

Statute, the application of which would not infringe the above-mentioned principle.<sup>89</sup> The Prosecution points out that other Chambers of the International Tribunal, including the Appeals Chamber, have applied this doctrine in relation to events which took place years before Ojdanić's conduct as described in the indictment.<sup>90</sup>

36. First, concerning the terminological matter raised by the Defence, the phrases "common purpose" doctrine on the one hand, and "joint criminal enterprise" on the other, have been used interchangeably and they refer to one and the same thing. The latter term – joint criminal enterprise – is preferred, but it refers to the same form of liability as that known as the common purpose doctrine or liability.

37. Secondly, the principle *nullum crimen sine lege* is, as noted by the International Military Tribunal in Nuremberg, first and foremost, a "principle of justice".<sup>91</sup> It follows from this principle that a criminal conviction can only be based on a norm which existed at the time the acts or omission with which the accused is charged were committed. The Tribunal must further be satisfied that the criminal liability in question was sufficiently foreseeable and that the law providing for such liability must be sufficiently accessible at the relevant time for it to warrant a criminal conviction and sentencing under the head of responsibility selected by the Prosecution.

38. This fundamental principle "does not prevent a court from interpreting and clarifying the elements of a particular crime".<sup>92</sup> Nor does it preclude the progressive development of the law by the court.<sup>93</sup> But it does prevent a court from creating new law or from interpreting existing law beyond the reasonable limits of acceptable clarification. This Tribunal must therefore be satisfied that the crime or the form of liability with which an accused is charged was sufficiently foreseeable and that the law providing for such liability must be sufficiently accessible at the relevant time, taking into account the specificity of international law when making that assessment.

<sup>89</sup> Prosecution's Response, par 51.

<sup>90</sup> Prosecution's Response, par 52.

<sup>91</sup> IMT Judgment, p 219.

<sup>92</sup> *Aleksovski* Appeal Judgment, pars 126-127; *Delalić* Appeal Judgment, par 173.

<sup>93</sup> See, *inter alia*, *Kokkinakis v Greece*, Judgment, 25 May 1993, Ser A 260-A (1993), pars 36 and 40 (ECHR); *EV v Turkey*, Judgment, 7 Feb 2002, par 52; *SW v United Kingdom*, Judgment, 22 Nov 1995, Ser A 335-B (1995), pars 35-36 (ECHR). See also *C.R v United Kingdom*, Judgment, 22 Nov 1995, Ser A 335-C (1995), par 34 (ECHR): "However clearly drafted a legal provision may be, in any system of law, including criminal law, there is an inevitable element of judicial interpretation. There will always be a need for elucidation of doubtful points and for adaptation to changing circumstances. Indeed, in the United Kingdom, as in the other Convention States, the progressive development of the criminal law through judicial law-making is a well entrenched and necessary part of legal tradition. Article 7 (art. 7) of the Convention cannot be read as outlawing the gradual clarification of the rules of criminal liability through judicial interpretation from case to case, provided that the resultant development is consistent with the essence of the offence and could reasonably be foreseen."

39. The meaning and scope of the concepts of “foreseeability” and “accessibility” of a norm will, as noted by the European Court of Human Rights,<sup>94</sup> depend a great deal on “the content of the instrument in issue, the field it is designed to cover and the number and status of those to whom it is addressed”.<sup>95</sup> The specificity of international criminal law in that respect has been eloquently noted by one American Military Tribunal in Nuremberg in the *Justice* case:

Under written constitutions the *ex post facto* rule condemns statutes which define as criminal, acts committed before the law was passed, but the *ex post facto* rule cannot apply in the international field as it does under constitutional mandate in the domestic field. [...] International law is not the product of statute for the simple reason that there is yet no world authority empowered to enact statutes of universal application. International law is the product of multipartite treaties, conventions, judicial decisions and customs which have received international acceptance or acquiescence. It would be sheer absurdity to suggest that the *ex post facto* rule, as known to constitutional states, could be applied to a treaty, a custom, or a common law decision of an international tribunal, or to the international acquiescence which follows the events. To have attempted to apply the *ex post facto* principle to judicial decisions of common international law would have been to strangle that law at birth.<sup>96</sup>

40. Has Ojdanić had sufficient notice that if, as claimed in the indictment, he took part in the commission of very serious criminal offences as part of a joint criminal enterprise he could be found criminally liable on that basis? This Tribunal does not apply the law of the former Yugoslavia to the definition of the crimes and forms of liability within its jurisdiction. It does, as pointed out above, apply customary international law in relation to its jurisdiction *ratione materiae*. It may, however, have recourse to domestic law for the purpose of establishing that the accused could reasonably have known that the offence in question or the offence committed in the way charged in the indictment was prohibited and punishable. In the present instance, and contrary to the Defence contention,<sup>97</sup> the law of the Federal Republic of Yugoslavia in force at the time did provide for criminal liability for the foreseeable acts of others in terms strikingly similar to those used to define joint criminal enterprise.<sup>98</sup> Article 26 of the Criminal Code of the Socialist Federal Republic of Yugoslavia provides that:

<sup>94</sup> See references in previous footnote, including, *Kokkinakis v Greece*, Judgment, 25 May 1993, Ser A 260-A (1993), (ECHR); *EV v Turkey*, Judgment, 7 Feb 2002; *SW v United Kingdom*, Judgment, 22 Nov 1995, Ser A 335-B (1995) (ECHR); *C.R v United Kingdom*, Judgment, 22 Nov 1995, Ser A 335-C (1995).

<sup>95</sup> *Groppera Radio AG and Others v Switzerland*, Judgment, 28 Mar 1990, Ser A 173, par 68.

<sup>96</sup> See, eg, *Trials of War Criminals Before The Nuremberg Military Tribunals Under Control Council Law No 10*, Vol III (“*Justice* case”), pp 974-975.

<sup>97</sup> Ojdanić’s Appeal, par 69.

<sup>98</sup> Articles 253 of the Criminal Code of the Socialist Federal Republic of Yugoslavia and Articles 226 of the Criminal Law of the Republic of Serbia to which the Defence refers are irrelevant insofar as they related, not to a form of joint criminal enterprise, but to a form of liability akin to “conspiracy” which, as pointed above, is a different form of liability. As to Article 254 of the Criminal Code of the Socialist Federal Republic of Yugoslavia and Article 227 of the Criminal Law of the Republic of Serbia, they are likewise irrelevant to the extent that they deal with the

Anybody creating or making use of an organisation, gang, cabal, group or any other association for the purpose of committing criminal acts is criminally responsible for all criminal acts resulting from the criminal design of these associations and shall be punished as if he himself has committed them, irrespective of whether and in what manner he himself directly participated in the commission of any of those acts.<sup>99</sup>

41. Although domestic law (in particular the law of the country of the accused) may provide some notice to the effect that a given act is regarded as criminal under international law, it may not necessarily provide sufficient notice of that fact. Customary law is not always represented by written law and its accessibility may not be as straightforward as would be the case had there been an international criminal code. But rules of customary law may provide sufficient guidance as to the standard the violation of which could entail criminal liability.<sup>100</sup> In the present case, and even if such a domestic provision had not existed, there is a long and consistent stream of judicial decisions, international instruments and domestic legislation<sup>101</sup> which would have permitted any individual to regulate his conduct accordingly and would have given him reasonable notice that, if infringed, that standard could entail his criminal responsibility.<sup>102</sup>

42. Also, due to the lack of any written norms or standards, war crimes courts have often relied upon the atrocious nature of the crimes charged to conclude that the perpetrator of such an act must have known that he was committing a crime. In the *Tadić* Judgment, for instance, the Appeals Chamber noted "the moral gravity" of secondary participants in a joint criminal enterprise to commit serious violations of humanitarian law to justify the criminalisation of their actions.<sup>103</sup> Although the immorality or appalling character of an act is not a sufficient factor to warrant its criminalisation under customary international law, it may in fact play a role in that respect, insofar as it may refute any claim by the Defence that it did not know of the criminal nature of the acts.<sup>104</sup>

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setting up or membership in a criminal organisation or criminal agreement, regardless of the commission of any crime in pursuance to that organisation. See, Zoran Stojanović, *Komentar Krivičnog Zakona Savezne Republike Jugoslavije*, Belgrade 1997, pp 269-270 and Nikola Srzentić and Ljubiša Lazarević, *Komentar Krivičnog Zakona Savezne Republike Jugoslavije*, Belgrade 1995, pp 806-812

<sup>99</sup> In 1992, the name of the Criminal Code of the Socialist Federal Republic of Yugoslavia was changed to "Criminal Code of the Federal Republic of Yugoslavia" (Official Gazette of the FRY No 35/92). For a commentary to that provision, see Zoran Stojanović, *Komentar Krivičnog Zakona Savezne Republike Jugoslavije*, Belgrade 1997, p 52.

<sup>100</sup> See *X Ltd and Y v United Kingdom*, D and R 28 (1982), Appl 8710/79, pp 77, 80-81.

<sup>101</sup> Contrary to the Defence submission on that point, the Appeals Chamber has not relied upon domestic legislation and domestic case law to identify custom (Ojdanić's Appeal, par 51). The Appeals Chamber referred to those "only [...] to show that the notion of common purpose upheld in international criminal law has an underpinning in many national systems" (*Tadić* Appeal Judgment, par 225). It added that "[i]n the area under discussion, domestic law does not originate from the implementation of international law but, rather, to a large extent runs parallel to, and precedes, international regulation" (ibid).

<sup>102</sup> See *Tadić* Appeal Judgment, pars 195 *et seq.*

<sup>103</sup> *Tadić* Appeal Judgment, par 191.

<sup>104</sup> In the *Delalić* case, the Appeals Chamber referred to the ICCPR to state that certain acts could be regarded as "criminal according to the general principles of law recognized by the community of nations" (*Delalić* Appeals

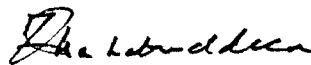
43. Article 26 of the Criminal Law of the Federal Republic of Yugoslavia, coupled with the extensive state practice noted in *Tadić*, the many domestic jurisdictions which provide for such a form of liability under various names and which forms of liability run parallel to custom,<sup>105</sup> and the egregious nature of the crimes charged would have provided notice to anyone that the acts committed by the accused in 1999 would have engaged criminal responsibility on the basis of participation in a joint criminal enterprise.

44. In sum, the Appeals Chamber does not view the concept of joint criminal enterprise as a separate offence in itself, but only as a mode of committing one of the offences prescribed by articles 2 to 5 of the Statute. This part of Ojdanić's appeal is therefore dismissed.

#### Disposition

45. The Appeals Chamber therefore dismisses the appeal.

Done in both French and English, the English text being authoritative.



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Mohamed Shahabuddeen  
Presiding

Done this 21<sup>st</sup> day of May 2003,  
At The Hague,  
The Netherlands.

Judge Shahabuddeen appends a separate opinion to this decision.  
Judge Hunt appends a separate opinion to this decision.

[Seal of the Tribunal]

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Chamber Judgment, par 173). The IMT used a similar formulation when addressing the criminalisation of aggressive war: "the attacker must know that he is doing wrong" (IMT Judgment, p 219)

<sup>105</sup> *Tadić* Appeal Judgment, par 225. See also Prosecution's Response, pars 22-24 and 45. In its Reply, the Defence stated its view that the Prosecution did "a wonderful job of cataloging the numerous national systems which have some or all of her three forms of collective liability" (Reply, par 14).



## SEPARATE OPINION OF JUDGE SHAHABUDDEEN

1. I agree with today's decision. On the central point, it unanimously and correctly follows this Chamber's previous ruling in *Tadić*<sup>1</sup> that joint criminal enterprise is part of customary international law. But, as with most if not all the cases decided by the Tribunal, the reasoning in that case (on which I sat)<sup>2</sup> can bear improvement. With valuable assistance deriving from a reading of the draft of Judge Hunt's separate opinion, I refer below to three points relating to possible areas of improvement.

2. The first point concerns a question whether *Tadić* used too many terms to refer to the concept of "joint criminal enterprise". The second point concerns a question whether the Appeals Chamber, in that case, is to be understood as describing a participant in a joint criminal enterprise as one who merely aids and abets. The third point concerns a question whether the holding of the Appeals Chamber in *Tadić* that joint criminal enterprise exists in customary international law was *obiter*.

### A. Multiplicity of terms

3. As to the first point, it is the case that many terms were used in the *Tadić* judgment. The term "joint criminal enterprise" was one of these terms,<sup>3</sup> but other terms also appeared. They have been brought together in paragraph 24 of a Trial Chamber's decision in *Brđanin and Talić*.<sup>4</sup> They do look curious when put in one place.

4. However, there seems to be some flexibility even within the greater coherence of a single national system. In the Court of Criminal Appeal of England and Wales, reference was made in the same case, at the same page, to "joint enterprise" and to "common enterprise".<sup>5</sup> In a Privy Council case, inclusive of a number of authorities which it cited, references were made to "joint enterprise", "common unlawful enterprise", "common enterprise", "planned enterprise", "common plan", and "common purpose".<sup>6</sup> A common law work of authority uses a subheading, "Joint enterprise/common design".<sup>7</sup> Leading common law authors speak of "common purpose".<sup>8</sup> That

<sup>1</sup> IT-94-1-A, of 15 July 1999.

<sup>2</sup> The bench comprised Judges Shahabuddeen, presiding, Cassese, Wang Tieya, Nieto-Navia and Mumba.

<sup>3</sup> IT-94-1-A, of 15 July 1999, para. 220.

<sup>4</sup> IT-99-36-PT, of 26 June 2001.

<sup>5</sup> *R. v. Anderson* [1966] 2 Q.B. 110 at 118; the catchwords of the report also spoke of "common design".

<sup>6</sup> *Chan Wing-Siu v. R.* (1985) 80 Cr. App. Rep. 117.

<sup>7</sup> *Archbold, Criminal Pleading, Evidence and Practice 2000* (London, 2003), paras. 18-15.

expression seems to be also acceptable in Canada<sup>9</sup> and South Africa.<sup>10</sup> In Australia, it appears that one may speak of “the doctrine of common purpose – or as it is called, joint venture, common venture, common enterprise, etc.”.<sup>11</sup>

5. In the context of the judgment in *Tadić*, which was tracing the evolution of the doctrine in customary international law, the terms used were understandable and caused no substantial difficulty, or none that was really unmanageable. Judge Cassese, who also sat on the bench which decided that case, has since written of “participation in a common purpose or design”.<sup>12</sup> I do not think that he was required to use another term.

**B. Whether the Appeals Chamber meant that a participant in a joint criminal enterprise is a mere aider and abettor**

6. The second point relates to a holding in paragraph 220 of the judgment in *Tadić* “that the notion of common design as a form of accomplice liability is firmly established in customary international law ...”. In saying that, was the Appeals Chamber saying that a participant in a joint criminal enterprise was one who merely aids and abets?

7. It is not appropriate to describe a participant in a joint criminal enterprise as one who merely aids and abets. But it is not believed that the intention to make such a description can be ascribed to the Appeals Chamber. It would seem that what was meant was that the participants in a joint criminal enterprise were themselves accomplices – accomplices of each other - and that they therefore engaged “a form of accomplice liability”. Is there something in law which excludes this meaning? More particularly, does the law prevent principals in the commission of a crime from being treated as accomplices of one another?

8. There is a question whether the definition of “accomplice” includes accessories after the fact, but that is not material in this case. *Black’s Law Dictionary*, 7<sup>th</sup> edition, at page 16, defines “accomplice” this way: “A person who is in any way concerned with another in the commission of

<sup>8</sup> Sir John Smith and Brian Hogan, *Criminal Law* (London, 1996), pp. 148-149.

<sup>9</sup> Don Stuart, *Canadian Criminal Law, A Treatise*, 3<sup>rd</sup> ed. (Toronto, 1995), pp. 561-2.

<sup>10</sup> C.R. Snyman, *Criminal Law*, 3<sup>rd</sup> ed. (Durban, 1995), pp. 249ff.

<sup>11</sup> Peter Gillies, *Criminal Law*, 4<sup>th</sup> ed. (New South Wales, 1997), p. 174. See also the references to “common purpose” in *Johns v. R.* [1980] 28 ALR 155 at 173.

<sup>12</sup> Antonio Cassese, *International Criminal Law* (Oxford, 2003), p. 181.

a crime, whether as a principal in the first or second degree or as an accessory.” At page 925, that work adds that “accomplice liability” is defined as “[c]riminal responsibility of one who acts with another before, during, or after a crime.”

9. An aider and abettor may be spoken of as an accomplice of the principal; but that does not exhaust the possibilities. Take a case in which there are no aiders and abettors but only principals. Each principal may be said to be “concerned with another in the commission of a crime” or to be “one who acts with another ... during ... a crime” within the meaning of *Black’s* definition of “accomplice”, and thus an accomplice of his fellow principals.

10. At any rate, there does not seem to be anything in the general law of evidence in criminal matters which would restrict “accomplice” to aiders and abettors and much that would extend it to include principals in the commission of a crime. In *Davies v. Director of Public Prosecutions*,<sup>13</sup> Lord Simonds, in his speech before the House of Lords, said that the term “accomplice” included the following persons if called as prosecution witnesses: “... persons who are participes criminis in respect of the actual crime charged, whether as principals or accessories before or after the fact (in felonies) or persons committing, procuring or aiding and abetting (in the case of misdemeanours). This”, he added, “is surely the natural and primary meaning of the term ‘accomplice.’” The distinction between felonies and misdemeanours in England has since been abolished, but this does not affect the fact that a principal can be an accomplice of another principal.

11. It remains to apply this conclusion to the language used by the Appeals Chamber in paragraph 220 of its judgment in *Tadić*. In that paragraph the Appeals Chamber was, as a matter of fact, not talking of a mere aider and abettor. It had in contemplation only those who participated in the joint criminal enterprise. It fell to be understood as saying that each participant in the joint criminal enterprise would be an accomplice of the other participants and, accordingly, would engage “a form of accomplice liability”.<sup>14</sup>

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<sup>13</sup> [1954] A.C.378, H.L.

12. In short, the reference to “accomplice” in paragraph 220 of the judgment of the Appeals Chamber in *Tadić* was restricted to participants in a joint criminal enterprise; it did not include mere aiders and abettors, and so the Appeals Chamber was not saying that participants in a joint criminal enterprise were mere aiders and abettors. If it were saying that, its statement would be in contradiction with what it said in paragraph 229, for there it proceeded expressly to mark the distinction between the two categories, stating that it would “distinguish between acting in pursuance of a common purpose or design to commit a crime, and aiding and abetting,” and giving specific grounds for the distinction.

13. So too in the case of paragraph 192 of the judgment, in which the Appeals Chamber said that, “depending upon the circumstances, to hold [co-perpetrators] liable only as aiders and abettors might understate the degree of their criminal responsibility”. Whether this should mean that aiders and abettors were necessarily to be punished at a lower level than co-perpetrators need not detain inquiry.<sup>15</sup> The important thing is that the statement evidenced a clear distinction being drawn by the Appeals Chamber between co-perpetrators and aiders and abettors and *a fortiori* between perpetrators and aiders and abettors.

14. The Appeals Chamber could contradict itself, but it might be presumed to intend not to do so. The explicit stand taken in paragraphs 192 and 229 was consistent with the position taken in paragraph 220 when this is construed as suggested above. It seems to me that there was no inconsistency between these paragraphs.

### C. Whether *Tadić* is *obiter*

15. The third point concerns the fact that *Tadić* only questioned the application to his case of the doctrine of joint criminal enterprise and so may be taken to have conceded its existence in customary international law.<sup>16</sup> The question is whether the apparent concession rendered *obiter* the ruling of the Appeals Chamber that the doctrine formed part of customary international law, with the result that it was not obligatory on a Trial Chamber to follow the ruling.

<sup>14</sup> Emphasis added.

<sup>15</sup> If the statement meant that the Statute itself prescribed that aiders and abettors had to be punished at a lower level than principals, the statement was *obiter*. On that point, there had been no argument and no separate inquiry and finding by the Appeals Chamber. See, further, below on *obiter*.

<sup>16</sup> IT-94-I-A, paras 176-177.

16. There are cases in which a concession by a party of a point was regarded as, by itself, sufficient to make a pronouncement by the court on the point an *obiter dictum*, even if it would otherwise have been *ratio decidendi*. But there can be other views; mine is as follows.

17. It has been put in various ways, but the *ratio decidendi* of a case is generally considered to be “the reason why it was decided as it was.”<sup>17</sup> The reason why a case was decided as it was does not logically depend on whether or not its underlying proposition was conceded or whether there was absence of argument on it. The proposition may be *ratio decidendi* despite absence of argument or a concession; these things do not automatically cause a holding to be an *obiter dictum* when it would otherwise have been *ratio decidendi*. What is *ratio decidendi* remains *ratio decidendi*.

18. However, it is useful to distinguish between *ratio decidendi* and the authority it exerts over the way other cases are decided. Though a holding is *ratio decidendi*, it may well have no more authority than an *obiter dictum*, but this result comes about by way of an *exception* to the authority normally exerted by *ratio decidendi*.<sup>18</sup>

19. The justification for an exception to the authority normally exerted by *ratio decidendi* is not simply the absence of argument or the making of a concession. As the cases suggest,<sup>19</sup> the justification is that, although the proposition in question was *ratio decidendi*, it was merely assumed by the court to be correct in the absence of argument or because of the making of a concession, and was not the result of the court’s own deliberate inquiry and considered finding. Two cases illustrate this.

20. In *Baker v. The Queen*, where the question before the Privy Council concerned the force of its previous holding, the Board said that the circumstances in which that holding was made “gave rise to a very strong inference, not that the Board had acted per incuriam but that it had merely accepted as correct for the purpose of disposing of the particular case a proposition which counsel in the case either had agreed or under the practice of the Judicial Committee were not in a position to dispute.”<sup>20</sup>

<sup>17</sup> *Ashville Investments Ltd. v. Elmer Contractors Ltd* [1989] Q.B. 488 at 494.

<sup>18</sup> See *Baker v. The Queen* [1975] A.C. 774 at 788, and *In re Hetherington Decd.* (1990) Ch. 1 at 10.

<sup>19</sup> *Ibid.*

<sup>20</sup> [1975] 3 All ER 55 at 64.

21. *In re Hetherington, Dec'd*, was a case in which the judge said that “the authorities ... clearly establish that even where a decision of a point of law in a particular sense was essential to an earlier decision of a superior court, but that superior court merely assumed the correctness of the law on a particular issue, a judge in a later case is not bound to hold that the law is decided in that sense.”<sup>21</sup>

22. Thus, if the holding was “essential” to the decision, it was clearly *ratio decidendi* and retained that quality. But, though *ratio decidendi*, its precedential value was diminished by the fact that the correctness of the holding was assumed in circumstances in which there was a concession or in which there was an absence of argument. However, the making of a concession or the absence of argument does not necessarily show that the court’s finding in favour of a proposition resulted from an assumption that the proposition was correct.

23. The Appeals Chamber may occasionally act on the basis of a concession of law. But it may also take the view that, concession or no concession, it would satisfy itself of the true state of the law before proceeding to apply it. The principle *jura curia novit*, which is of municipal origin<sup>22</sup> but also applies to international adjudication, gives the Appeals Chamber that competence, if indeed it does not require the Appeals Chamber to apprise itself of the law. So, even if there is a concession, that does not disable the Appeals Chamber from inquiring into the law. Where the Appeals Chamber does so, the proposition announced in the resulting holding is not assumed: it has emerged from the analysis and finding independently made by the Chamber.

24. In sum, where, as in this case, the proposition in question was in no sense assumed but, on the contrary, resulted from careful and exhaustive examination by the court of material relevant to a manifestly important point bearing on its jurisdiction,<sup>23</sup> the conclusion of the court cannot be relegated to the ranks of *obiter dicta* on the mere ground that the proposition was conceded by the party concerned; it is *ratio decidendi* and exerts the force normally flowing from this.

25. Moreover, it is helpful to bear in mind what Cairns, J., said in *W.B. Anderson and Sons Ltd. v. Rhodes (Liverpool) Ltd.*<sup>24</sup> The question was what authority should a lower court give to a pronouncement by the highest court in the system, which went beyond what was really necessary for the decision of the issue which was actually involved. The judge said:

<sup>21</sup> [1990] Ch. 1, per Sir Nicholas Browne-Wilkinson, V.C.

<sup>22</sup> Bin Cheng, *General Principles of Law as Applied by International Courts and Tribunals* (London, 1953), p. 299.

<sup>23</sup> For the duty of the court to satisfy itself that it has jurisdiction, whether or not the point has been argued, see, by analogy, Judge Basdevant’s dissenting opinion in *Certain Norwegian Loans*, I.C.J. Reports 1957, p.9 at p.74.

<sup>24</sup> [1967] 2 All E.R. 850 at 857.

Under the law as it was understood to be before *Hedley Byrne & Co Ltd v Heller & Partners Ltd* was decided in the House of Lords, there could be no liability for negligent misrepresentation unless there was a contractual duty of care. The actual decision in the *Hedley Byrne* case was that the plaintiffs could not succeed because the representations made to them were expressly made without responsibility, but all the law lords agreed that in some circumstances there could be a liability in tort for negligent misrepresentation. An academic lawyer might be prepared to contend that the opinions expressed by their lordships about liability for negligent misrepresentation were obiter, and that *Candler v Crane, Christmas & Co* is still a binding decision. In any<sup>25</sup> judgment that would be an unrealistic view to take. When five members of the House of Lords have all said, *after close examination of the authorities*,<sup>26</sup> that a certain type of tort exists, I think that a judge of first instance should proceed on the basis that it does exist without pausing to embark on an investigation of whether what was said was necessary to the ultimate decision.

26. These remarks, as I understand them, show that, even if a holding went beyond what was really necessary for the decision of the issue which was actually involved and was therefore *obiter*, it has to be fully regarded by lower courts if it represented the considered views of the highest court in the system. The remarks assume greater force when it is borne in mind that the Tribunal is not in the position of a domestic court operating with a largely settled corpus of law; its juristic mission is more exploratory than is that of a normal domestic court.

#### **D. Conclusion**

27. On the central point, *Tadić* was of course right: joint criminal enterprise is recognised in customary international law. Nevertheless, the development of most, if not all, of the case-law of the Tribunal can benefit from further consideration, whether of that point or of others. And so, for myself, I have given attention to three points on which it might be thought that improvements could be made to the reasoning in *Tadić*.

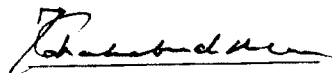
28. As to the first point, the *Tadić* judgment could have used fewer terms to refer to joint criminal enterprise. However, the variety of language employed was understandable and causes no substantial difficulty, or none that is really unmanageable. As to the second point, it is not

<sup>25</sup> The word "any" is given as "my" in the excellent work of Rupert Cross and J.W.Harris, *Precedent in English Law*, 4<sup>th</sup> ed. (Oxford, 1991), p. 80. The latter sounds better, but I am not sure which is textually correct.

appropriate to describe a participant in a joint criminal enterprise as one who merely aids and abets, but the Appeals Chamber in *Tadić* did not say so. As to the third point, the ruling of the Appeals Chamber in *Tadić* was not *obiter*; it was *ratio decidendi* and carried the authority normally associated with that concept.

29. Thus, on all three points, I am content with the judgment rendered in *Tadić*.

Done both in English and in French, the English text being authoritative.



Mohamed Shahabuddeen

Dated this 21 May 2003

At The Hague

The Netherlands

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<sup>26</sup> Emphasis added.



UNITED  
NATIONS



International Tribunal for the  
Prosecution of Persons Responsible  
for Serious Violations of International  
Humanitarian Law Committed in the  
Territory of the Former Yugoslavia  
Since 1991

Case: IT-99-37-AR72

Date: 21 May 2003

Original: English

**IN THE APPEALS CHAMBER**

Before: Judge Mohamed Shahabuddeen, Presiding  
Judge Fausto Pocar  
Judge Claude Jorda  
Judge David Hunt  
Judge Asoka de Zoysa Gunawardana

Registrar: Mr Hans Holthuis

Decision of: 21 May 2003

**PROSECUTOR**

v

**Milan MILUTINOVIĆ, Nikola ŠAINOVIĆ & Dragoljub OJDANIĆ**

**SEPARATE OPINION OF JUDGE DAVID HUNT  
ON CHALLENGE BY OJDANIĆ TO JURISDICTION  
*JOINT CRIMINAL ENTERPRISE***

**Counsel for the Prosecutor:**

**Mr Norman Farrell**

**Counsel for the Accused Dragoljub Ojdanić:**

**Mr Tomislav Višnjić, Mr Vojislav Seležan & Mr Peter Robinson**

**SEPARATE OPINION OF JUDGE DAVID HUNT  
ON CHALLENGE BY OJDANIĆ TO JURISDICTION  
JOINT CRIMINAL ENTERPRISE**

**The nature of the appeal**

1. Dragoljub Ojdanić ("Ojdanić") has launched what his counsel describe as "a frontal attack on the beast known as 'joint criminal enterprise'".<sup>1</sup> This attack is misplaced, because the nature of the "beast" which Ojdanić attacks has been almost entirely misunderstood by them. That is not to say that some further attention to the way in which a joint criminal enterprise has been defined is unwarranted. However, I am satisfied that an individual criminal responsibility for participation in a joint criminal enterprise to commit a crime clearly existed as part of customary international law at the relevant time, and that the challenge to the jurisdiction of the Tribunal to find such an individual criminal responsibility in relation to crimes within its jurisdiction must fail.

2. The Trial Chamber, from whose decision this interlocutory appeal is brought pursuant to Rule 72(B)(i) of the Rules of Procedure and Evidence ("Rules"), held that the Appeals Chamber had already determined in *Tadić* that participation in a joint criminal enterprise is a mode of individual criminal responsibility within Article 7.1 of the Tribunal's Statute in respect of any crimes within the jurisdiction of the Tribunal,<sup>2</sup> and that the elements and application of such a mode of individual criminal responsibility had been defined by the Appeals Chamber in its judgments in *Tadić*, *Furundžija* and *Čelebići*.<sup>3</sup> Accordingly, it dismissed the challenge to the Tribunal's jurisdiction.<sup>4</sup>

3. Implicit in the first of those rulings is the unstated assumption by the Trial Chamber that the decision of the Appeals Chamber that individual criminal responsibility for participation in a joint criminal enterprise existed in customary international law at the time of the events alleged against *Tadić* was part of its *ratio decidendi*,<sup>5</sup> and thus binding upon the Trial Chamber in

<sup>1</sup> General Ojdanić's Appeal from Denial of Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise, 28 Feb 2003 ("Interlocutory Appeal"), par 9.

<sup>2</sup> Decision on Dragon Ojdanić's Preliminary Motion to Dismiss for Lack of Jurisdiction: Joint Criminal Enterprise, 13 Feb 2003 ("Trial Chamber Decision"), pp 4, 6. The reference is to *Prosecutor v Tadić*, IT-94-1-A, Judgment, 15 July 1999 ("*Tadić* Conviction Appeal Judgment").

<sup>3</sup> *Tadić* Conviction Appeal Judgment, p 6. The further references are to *Prosecutor v Furundžija*, IT-95-17/1-A, Judgment, 21 July 2000 ("*Furundžija* Appeal Judgment") and *Prosecutor v Delalić et al*, IT-96-21-A, Judgment, 20 Feb 2001 ("*Delalić* Conviction Appeal Judgment").

<sup>4</sup> Trial Chamber Decision, p 7.

<sup>5</sup> The concept was described in various ways by the Appeals Chamber in the *Tadić* Conviction Appeal Judgment (see par 5, *infra*), including "common purpose", but the concept has since generally been referred to as joint criminal enterprise (*ibid*).

accordance with the judgment of the Appeals Chamber in *Prosecutor v Aleksovski*.<sup>6</sup> This assumption is challenged by Ojdanić, who asserts that the statements made by the Appeals Chamber in *Tadić* (upon the basis of which the prosecution case has been pleaded in the indictment against him in the present case) were *obiter dicta*.<sup>7</sup> The difference between the two concepts is that the *ratio decidendi* is the statement of legal principle (express or implied) which was necessary for the disposal of the case, whereas an *obiter dictum* is such a statement of legal principle which goes beyond what was necessary for the disposal of the case.<sup>8</sup>

4. This appeal thus raises a number of issues:

- (1) Was the ruling in the *Tadić* Conviction Appeal Judgment that joint criminal enterprise is a mode of individual criminal responsibility within Article 7.1 of the Tribunal's Statute binding on the Trial Chamber?
- (2) If that ruling was not binding –
  - (a) Was that ruling correct?
  - (b) Was the *Tadić* Conviction Appeal Judgment correct in the definition it gave of the elements and application of such a mode of individual criminal responsibility?

But, before dealing with these issues, it is necessary to identify what it was that the Appeals Chamber stated in the *Tadić* Conviction Appeal Judgment.

#### **What did *Tadić* state?**

5. The issues which the Appeals Chamber determined in the *Tadić* Conviction Appeal Judgment were (i) whether the acts of one person can give rise to the criminal responsibility of another person where both persons participate in the execution of “a common criminal plan”, and (ii) the state of mind which must be established in such a case in relation to the person who does not physically execute (or carry out) the crime charged.<sup>9</sup> The first issue was subsequently re-stated as being whether criminal responsibility for participation in a “common criminal purpose” fell within the ambit of individual responsibility in Article 7.1 of the Tribunal's Statute.<sup>10</sup> The Appeals Chamber labelled this concept variously, and apparently interchangeably, as a common

<sup>6</sup> IT-95-14/1-A, Judgment, 24 Mar 2000 (“*Aleksovski* Appeal Judgment”), par 113.

<sup>7</sup> Interlocutory Appeal, par 37.

<sup>8</sup> *The Oxford Companion to Law*, 1980, Entry “Ratio Decidendi”, which is based upon the text of CK Allen, *Law in the Making*.

<sup>9</sup> *Tadić* Conviction Appeal Judgment, par 185.

<sup>10</sup> *Ibid*, par 187.

criminal plan,<sup>11</sup> a common criminal purpose,<sup>12</sup> a common design or purpose,<sup>13</sup> a common criminal design,<sup>14</sup> a common purpose,<sup>15</sup> a common design,<sup>16</sup> and a common concerted design.<sup>17</sup> The common purpose is also described, more generally, as being part of a criminal enterprise,<sup>18</sup> a common enterprise,<sup>19</sup> and a joint criminal enterprise.<sup>20</sup> Following the first detailed consideration of the *Tadić* Conviction Appeal Judgment within the Tribunal (in which a preference for the term “joint criminal enterprise” was expressed),<sup>21</sup> the concept has generally been referred to as a joint criminal enterprise, and this is the term which has been adopted by the prosecution in the present indictment and in many other indictments.

6. The Appeals Chamber held that the notion of a joint criminal enterprise “as a form of accomplice liability” was firmly established in customary international law, and that it was available (“albeit implicitly”) under the Tribunal’s Statute.<sup>22</sup> The Appeals Chamber identified three “distinct categories of collective criminality” as being encompassed within the concept of joint criminal enterprise,<sup>23</sup> although it subsequently suggested that the second category was in many respects similar to the first,<sup>24</sup> and that it was really a variant of the first category.<sup>25</sup> The three categories were as follows:

*Category 1:*<sup>26</sup> All of the participants in the joint criminal enterprise,<sup>27</sup> acting pursuant to a common design, possessed the same criminal intention. The example is given of a plan formulated by the participants in the joint criminal enterprise to kill where, although each of the participants in the plan may carry out a different role, each of them has the intent to kill.<sup>28</sup>

<sup>11</sup> *Ibid*, par 185.

<sup>12</sup> *Ibid*, par 187.

<sup>13</sup> *Ibid*, par 188.

<sup>14</sup> *Ibid*, pars 191, 193.

<sup>15</sup> *Ibid*, pars 193, 195, 204, 225.

<sup>16</sup> *Ibid*, pars 196, 202, 203, 204.

<sup>17</sup> *Ibid*, par 203.

<sup>18</sup> *Ibid*, par 199.

<sup>19</sup> *Ibid*, par 204.

<sup>20</sup> *Ibid*, par 220.

<sup>21</sup> *Prosecutor v Brđanin & Talić*, IT-99-36-PT, Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001 (“*Brđanin & Talić* Decision”), par 24. The Appeals Chamber appears to have expressed a similar preference, in its decision in the present case (par 36).

<sup>22</sup> *Tadić* Conviction Appeal Judgment, par 220.

<sup>23</sup> *Ibid*, par 195.

<sup>24</sup> *Ibid*, par 202.

<sup>25</sup> *Ibid*, par 203.

<sup>26</sup> *Ibid*, par 196.

<sup>27</sup> The *Tadić* Conviction Appeal Judgment (at par 196) describes them all as “co-defendants”, but the issue is the same where only some of the participants have been charged and are standing trial. The category does not depend upon just who has been charged.

<sup>28</sup> The Judgment speaks here (also at par 196) of co-perpetrators, but this is an issue to which I must return.

*Category 2:*<sup>29</sup> All of the participants in the joint criminal enterprise were members of military or administrative groups acting pursuant to a concerted plan, where the person charged held a position of authority within the hierarchy; although he did not physically execute any of the crimes charged, he actively participated in enforcing the plan by aiding and abetting the other participants in the joint criminal enterprise who did execute them. The example is given of a concentration camp, in which the prisoners are killed or otherwise mistreated pursuant to the joint criminal enterprise.

*Category 3:*<sup>30</sup> All of the participants were parties to a common design to pursue one course of conduct, where one of the persons carrying out the agreed object of that design also commits a crime which, whilst outside the “common design”, was nevertheless a natural and foreseeable consequence of executing “that common purpose”.<sup>31</sup> The example is given of a common (shared) intention on the part of a group to remove forcibly members of one ethnicity from their town, village or region (labelled “ethnic cleansing”), with the consequence that, in the course of doing so, one or more of the victims is shot and killed.

7. It is clear from the *Tadić* Conviction Appeal Judgment that, in relation to both the first and the second categories, the prosecution must demonstrate that all of the persons charged and all of the persons who physically executed the crime charged had a common state of mind – that the crime charged should be carried out (or executed), and the state of mind required for that crime. This is an appropriate use of the phrase “common purpose”,<sup>32</sup> and it is reflected in various other phrases used in that Judgment, such as “acting in pursuance of a common criminal design”.<sup>33</sup> Insofar as the *first* category is concerned, this is stated expressly:<sup>34</sup>

[...] all co-defendants, acting pursuant to a common design, possess the same criminal intention [...].

The example is given of a plan to kill in effecting this common design, and it is said that, even though the various participants in that plan may be carrying out different roles within that plan, it must be shown that “all possess the intent to kill”. The passage concludes:

<sup>29</sup> *Tadić* Conviction Appeal Judgment, par 202.

<sup>30</sup> *Ibid.*, par 204.

<sup>31</sup> The Judgment’s use of the word “perpetrator” (at par 196) is a reference to a person who physically perpetrates the crime falling within the agreed object of the common design, or joint criminal enterprise.

<sup>32</sup> *Tadić* Conviction Appeal Judgment, par 190.

<sup>33</sup> *Ibid.*, pars 191, 193.

<sup>34</sup> *Ibid.*, par 196.

[The] accused, even if not personally effecting the killing, must nevertheless intend this result.

8. Insofar as the *second* category is concerned, the position is stated a little more discursively, but nevertheless to the same effect. After referring to the joint criminal enterprise as being one “to kill or mistreat prisoners”,<sup>35</sup> and as “a system of repression”,<sup>36</sup> the *Tadić* Conviction Appeal Judgment states:<sup>37</sup>

The *mens rea* element comprised: (i) knowledge of the nature of the system and (ii) the intent to further the common concerted design to ill-treat inmates.

As that Judgment suggests, the second category does not differ substantially from the first. The position of the accused in the second category is exactly the same as the accused in the first category. Both carry out a role within the joint criminal enterprise to effect the object of that enterprise which is different to the role played by the person who physically executes the crime charged. The role of the accused in the second category is enforcing the plan by assisting the person who physically executes the crime charged.<sup>38</sup> Both of them must intend that the crime charged is to take place. To accept anything less as sufficient would deny the existence of a “common purpose”.<sup>39</sup> The first and second categories have together been described elsewhere as the *basic* form of joint criminal enterprise, and the third category as an *extended* form of joint criminal enterprise.<sup>40</sup>

<sup>35</sup> *Ibid*, par 202.

<sup>36</sup> *Ibid*, par 203.

<sup>37</sup> *Ibid*, par 203.

<sup>38</sup> *Ibid*, par 202.

<sup>39</sup> The relevant state of mind for the accused, as an element of the prosecution case, must be established beyond reasonable doubt. It may be inferred from the circumstances of his participation by way of assistance: if the accused, with knowledge of the nature of the system, assisted the person who physically executes the crime charged in a sufficiently substantial way, then his intent to further the common concerted design may be inferred if that is the only reasonable inference which is available. Care should, however, be exercised that the step of drawing the inference beyond reasonable doubt as to this state of mind on the part of the accused is not ignored. There are some statements in the cases which appear, at least on their face, to jump straight from knowledge plus substantial assistance to guilt, without first drawing the necessary inference beyond reasonable doubt as to intent of the accused. Without determining here whether or not such statements should be accepted at face value, it is sufficient for reference to be made to statements made by the Trial Chamber in *Prosecutor v Kvočka et al*, IT-98-30/1-T, Judgment, 2 Nov 2001, at pars 273, 306, 309-310, 312. The test is more accurately stated in the third sentence of par 284 of that judgment, provided that it is understood that, for the inference to be drawn beyond reasonable doubt, it must be the only reasonable inference available: *Delalić* Conviction Appeal Judgment, par 458.

<sup>40</sup> *Brđanin & Talić* Decision, par 27.

9. Insofar as the *third* category (the extended form of joint criminal enterprise) is concerned, the Appeals Chamber identified the relevant state of mind in various ways. The first statement was in these terms:<sup>41</sup>

Criminal responsibility may be imputed to all participants within the common enterprise where the risk of death occurring was both [*sic*] a predictable consequence of the execution of the common design and the accused was either reckless or indifferent to that risk.

The next passage summarises the relevant state of mind in these terms:<sup>42</sup>

What is required is a state of mind in which a person, although he did not intend to bring about a certain result, was aware that the actions of the group were most likely to lead to that result but nevertheless willingly took that risk. In other words, the so-called *dolus eventualis* is required (also called “advertent recklessness” in some national legal systems).

The third passage summarises the relevant state of mind in these terms:<sup>43</sup>

[...] responsibility for a crime other than the one agreed upon in the common plan arises only if, under the circumstances of the case, (i) it was *foreseeable* that such a crime might be perpetrated by one or other members of the group and (ii) the accused *willingly took that risk*.

10. It is unfortunate that expressions conveying different shades of meaning have been used in these three formulations, apparently interchangeably, in relation to the very category which the Appeals Chamber was applying in that appeal. So far as the *subjective* state of mind is concerned, there is a clear distinction between a perception that an event is possible and a perception that the event is likely (a synonym for probable). The latter places a greater burden on the prosecution than the former. The word “risk” is an equivocal one, taking its meaning from its context. In the first of these three formulations stated (“the risk of death occurring”), it would seem that it is used in the sense of a possibility. In the second formulation, “most likely” means at least probable (if not more), but its stated equivalence to the civil law notion of *dolus eventualis* would seem to reduce it once more to a possibility.<sup>44</sup> The word “might” in the third formulation indicates again a possibility. In many common law national jurisdictions, where the crime charged goes beyond what was agreed in the joint criminal enterprise, the prosecution must establish that the participant who did not himself carry out that crime nevertheless

<sup>41</sup> *Tadić* Conviction Appeal Judgment, par 204.

<sup>42</sup> *Ibid*, par 220.

<sup>43</sup> *Ibid*, par 228. The emphasis appears in the Judgment.

<sup>44</sup> *Dolus eventualis* is a subtle civil law concept with a wide application in relation to the state of mind required for different crimes. It requires an advertence to the possibility that a particular consequence will follow, and acting with either indifference or being reconciled to that possibility (in the sense of being prepared to take that risk). The extent to which the possibility must be perceived differs according to the particular country in which the civil law is adopted, but the highest would appear to be that there must be a “concrete” basis for supposing that the particular consequence will follow.

participated in that enterprise with the contemplation of the crime charged as a *possible* incident in the execution of that enterprise.<sup>45</sup> This is very similar to the civil law notion of *dolus eventualis* or advertent recklessness. So far as the *objective* element to be proved is concerned, the words “predictable” in the first formulation and “foreseeable” in the third formulation are truly interchangeable in this context.

11. The *Tadić* Conviction Appeal Judgment has accordingly been interpreted, in the case of a participant in the joint criminal enterprise who is charged with a crime carried out by another participant which goes beyond the agreed object of that enterprise, as requiring the prosecution to establish:<sup>46</sup>

- (i) that the crime charged was a natural and foreseeable consequence of the execution of that enterprise, and
- (ii) that the accused was aware that such a crime was a possible consequence of the execution of that enterprise, and that, with that awareness, he participated in that enterprise.

The first is an *objective* element of the crime, and does not depend upon the state of mind on the part of the accused. The second is the *subjective* state of mind on the part of the accused which the prosecution must establish. None of the various formulations in *Tadić* Conviction Appeal Judgment requires the prosecution in such a case to establish that the accused intended such further crime to be carried out, or that he shared with that other participant the state of mind required for that further crime.

12. The state of mind of the accused to be established by the prosecution accordingly differs according to whether the crime charged:

- (a) was *within* the object of the joint criminal enterprise, or
- (b) went *beyond* the object of that enterprise, but was nevertheless a natural and foreseeable consequence of that enterprise.

If the crime charged fell *within* the object of the joint criminal enterprise, the prosecution must establish that the accused shared with the person who physically executed the crime the state of mind required for that crime. If the crime charged went *beyond* the object of the joint criminal enterprise, the prosecution needs to establish only that the accused was aware that the further crime was a possible consequence in the execution of that enterprise and that, with that awareness, he participated in that enterprise.

<sup>45</sup> *Johns v The Queen* (1980) 143 CLR 108, at 111-113, 116, 130-131; *Chan Wing-Siu v The Queen* [1985] AC 168, at 175, 178.

<sup>46</sup> *Brđanin & Talić* Decision, par 30.



13. A familiar example of a joint criminal enterprise, which incorporates both the basic and the extended forms of the enterprise, will illustrate these differences more clearly.

- Three men (A, B and C) reach an understanding or arrangement amounting to an agreement between them that they will rob a bank, and that they will carry with them a loaded weapon for the purposes of persuading the bank teller to hand over the money and of frightening off anyone who attempts to prevent the armed robbery from taking place. The agreement is that A is to carry the weapon and to demand the money from the teller, B is to stand at the doorway to the bank to keep watch, and C is to drive the getaway vehicle and to remain with the vehicle whilst the other two go inside the bank. The basic form of the joint criminal enterprise is therefore one to commit an armed robbery.
- During the course of the armed robbery, A produces the weapon and demands that the bank teller hand over the money. As the teller does so, A observes him also pressing a button, which A thinks would alert the police that a robbery is taking place. A panics and fires his weapon, wounding the bank teller. In such a situation, in order to establish that all three men (A, B and C) were guilty of the armed robbery (the basic form of the joint criminal enterprise), the prosecution would have to prove that all three men intended the armed robbery to take place and that they shared the relevant state of mind required for the crime of armed robbery. If B and C are shown to have shared that state of mind with A, they are guilty with him of the armed robbery, even though they did not physically execute the crime themselves.
- The wounding of the teller, however, was not within the object of the basic joint criminal enterprise to which B and C had agreed. In order to establish that not only A but also B and C were responsible for the wounding of the teller (the extended form of the joint criminal enterprise), the prosecution would have to prove that such a wounding was a natural and foreseeable consequence of carrying a loaded weapon during an armed robbery, that each of B and C was aware that the wounding of someone was a possible consequence in the execution of the armed robbery he had agreed to, and that, with that awareness, he participated in that armed robbery. The prosecution would *not* have to establish that B and C intended that anyone would be wounded or that they shared with A the relevant state of mind required for the further crime of wounding.

***(1) Was the ruling that joint criminal enterprise is a mode of individual criminal responsibility within Article 7.1 binding on the Trial Chamber?***

14. Ojdanić has pointed out (as is the fact) that, in his conviction appeal, Tadić did not challenge the existence of individual criminal responsibility for participation in a joint criminal

enterprise in customary international law, but merely the application of such a form of responsibility to the findings which had been made by the Trial Chamber.<sup>47</sup> The facts found by the Trial Chamber were that Tadić had actively taken part in an attack upon a village in which a number of men were killed, by rounding up some of the men and severely beating them.<sup>48</sup> The Appeals Chamber held that the only possible inference from those facts was that Tadić had the intention to further the criminal purpose to rid the Prijedor region of the non-Serb population, by committing inhumane acts against them.<sup>49</sup> The Appeals Chamber also held that the fact that non-Serbs might be killed in effecting this common aim was, in the circumstances of the case, foreseeable,<sup>50</sup> that Tadić was beyond doubt aware that killings had accompanied the commission of those inhumane acts,<sup>51</sup> and that he was aware that the actions of the group of which he was a member were likely to lead to such killings but he nevertheless willingly took that risk.<sup>52</sup> The Appeals Chamber therefore concluded that Tadić had “participated” in the killings, and that he should be found criminally responsible for those killings under Article 7.1.<sup>53</sup>

15. As the existence of an individual criminal responsibility for participating in a joint criminal enterprise to commit a crime specified in the Tribunal’s Statute was conceded by Tadić, the ruling that such an individual criminal responsibility existed in customary international law was not necessary for the disposal of that appeal, no matter how logical it may have been to consider the place of joint criminal enterprise in customary international law and what its elements were in order to determine whether it applied in the circumstances of that case. The ruling was therefore, strictly, an *obiter dictum* which was not binding upon the Trial Chamber in the present case, however persuasive it clearly would have been.<sup>54</sup>

**(2)(a) Was the ruling correct?**

16. This issue contains within it two separate issues:

<sup>47</sup> Tadić Conviction Appeal Judgment, par 177.

<sup>48</sup> *Ibid*, par 232.

<sup>49</sup> *Ibid*, par 232.

<sup>50</sup> *Ibid*, par 232.

<sup>51</sup> *Ibid*, par 231.

<sup>52</sup> *Ibid*, par 232.

<sup>53</sup> *Ibid*, par 233.

<sup>54</sup> I do not, however, accept the argument put by Ojdanić (Interlocutory Appeal, par 37) that, as the facts established that Tadić had aided and abetted those who killed the men, the Appeals Chamber “went far beyond that which was necessary to reinstate Tadić’s conviction”. Such an argument wrongly assumes that the extent of the responsibility of a person who aids and abets the commission of a crime is the same as one who participates in a joint criminal enterprise to commit that crime. The distinction is made clear in par 29, *infra*.

- (i) Did such an individual criminal responsibility for participation in a joint criminal enterprise to commit a crime exist in customary international law at the relevant time (the period “since 1991”)?<sup>55</sup>
- (ii) Is such an individual criminal responsibility contemplated by Article 7.1 of the Tribunal’s Statute?

**(i) Customary international law**

17. In my opinion, the affirmative ruling by the Appeals Chamber that such a responsibility did exist as customary international law at that time was correct. The *Tadić* Conviction Appeal Judgment reviewed a large number of decisions of military or other tribunals in the trials of persons charged with violations of international humanitarian law committed during World War II.<sup>56</sup> Most of the cases reviewed were tried in accordance with the domestic law of the country which established the particular tribunal. In general, those in which the concept of joint criminal enterprise was recognised were decided in accordance with common law principles. Most of those which were decided in accordance with civil law principles recognised a similar but not identical concept of co-perpetration. Other cases still were decided under Control Council Law No 10, but these were concerned mainly with the specific crime of membership of a criminal group or organisation declared to be criminal by the International Military Tribunal,<sup>57</sup> an offence which was entirely distinct from a crime committed by way of participation in a joint criminal enterprise, a distinction to which I will refer again later.

18. Ojdanić has argued that, as these decisions were of the tribunals of occupying powers and not of international tribunals, they “have no subsequent validity in international law”.<sup>58</sup> He ascribes the words quoted to M Cherif Bassiouni,<sup>59</sup> but they were in fact used by Bassiouni (with the addition of the word “criminal” following “international”) not to deny the validity of the decisions of the tribunals of occupying powers as international law, but to deny the validity as such law of the specific crime of membership of a criminal organisation referred to in the

<sup>55</sup> Tribunal’s Statute, Article 1.

<sup>56</sup> *Tadić* Conviction Appeal Judgment, pars 197-220

<sup>57</sup> Charter of the International Military Tribunal, II. Jurisdiction and General Principles, Articles 9-10; Control Council Law No 10, Article II(1)(d).

<sup>58</sup> Interlocutory Appeal, par 49.

<sup>59</sup> *Crimes Against Humanity in International Law* (1992), “Elements of Criminal Responsibility”, p 356.

preceding paragraph of this Opinion.<sup>60</sup> It is unnecessary to follow the same path through the decisions reviewed in the *Tadić* Conviction Appeal Judgment as was followed in that Judgment. It is clear that, notwithstanding the domestic origin of the laws applied in many trials of persons charged with war crimes at that time, the law which was applied must now be regarded as having been accepted as part of customary international law.

(ii) *Article 7.1*

19. Article 7.1 of the Statute ("Individual criminal responsibility") provides that:

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

Ojdanić disputes the ruling by the Appeals Chamber in the *Tadić* Conviction Appeal Judgment that this provision contemplated an individual criminal responsibility for participation in a joint criminal enterprise to commit a crime within the Tribunal's jurisdiction. His argument is three-fold:

- (a) where such a responsibility is intended to be included in an instrument, it is expressly stated;
- (b) an attempt to include such a responsibility in the Tribunal's Statute was rejected by the United Nations; and
- (c) academic opinion denies that it was intended to be included.

20. As to (a), Ojdanić refers to:

- (i) the Charter of the International Military Tribunal, which provided:<sup>61</sup>

Leaders, organisers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any such persons in execution of such plan.

- (ii) the Rome Statute of the International Criminal Court, which provides for a criminal responsibility for contributing to the commission of a crime "by a group of persons acting with a common purpose";<sup>62</sup> and

<sup>60</sup> Bassiouni also said (*op cit*, at pp 355-356) that decisions of the Control Council No 10 tribunals in relation to these criminal organisations "do not constitute a valid international legal precedent, except for its affirmations of certain 'general principles'", whatever such an exception may mean. I agree with his view that that crime forms no part of customary international law. The *Tadić* Conviction Appeal Judgment did not, of course, refer to the decisions of the tribunals of the occupying forces as precedents – but only as relevant instances of State practice for the purposes of identifying a norm of customary international law.

<sup>61</sup> Article 6.

<sup>62</sup> Article 25(3)(d).

(iii) the International Convention for the Suppression of Terrorist Bombing, which also provides for a criminal responsibility for contributing to the commission of a crime by such persons.<sup>63</sup>

21. It is a misconception to argue that, because these three instruments included an express reference to an individual criminal responsibility for participation in a joint criminal enterprise, the Tribunal's Statute would also have referred expressly to such a criminal responsibility if it had been intended that it would fall within the Tribunal's jurisdiction. If, for example, the Tribunal's Statute itself had included a particular mode of individual criminal responsibility in relation to all but one of the crimes which it invested the Tribunal with jurisdiction to try, it may be difficult to explain away the absence of such a criminal responsibility in relation to the remaining crime as otherwise than an intentional exclusion of such a mode of responsibility. Where, however, all but one of four different instruments, drafted in four entirely different sets of circumstances, provide for a particular mode of individual criminal responsibility but the remaining instrument does not do so, the omission of an express reference to such a mode of responsibility in that fourth instrument cannot, by itself, fairly be regarded as an intentional exclusion of that mode of responsibility.

22. As to (b), Ojdanić relies upon the absence from the Tribunal's Statute (except in relation to genocide, in Article 4) of any reference to participation of *conspiracy* as a mode of individual criminal responsibility, despite the submissions by a number of countries that such a mode of responsibility should be included.<sup>64</sup> Ojdanić defines conspiracy as:

[...] an understanding or arrangement amounting to an agreement between two or more persons that they will commit a crime,

and states "This is precisely the basis of liability for joint criminal enterprise".<sup>65</sup> The absence of conspiracy as a mode of individual criminal responsibility is said to reaffirm the view that the Security Council consciously intended to exclude joint criminal enterprise as a mode of individual criminal responsibility.<sup>66</sup>

23. This argument is entirely fallacious. Conspiracy is not a mode of individual criminal responsibility for the commission of a crime. Conspiracy is itself a crime (of an inchoate nature)

<sup>63</sup> Article 2(3)(c).

<sup>64</sup> Reliance is placed upon the submissions of the United States, Canada, Italy and Slovenia, as described by Morris & Scharf, *An Insider's Guide to the International Criminal Tribunal for the former Yugoslavia*, pp 384-387 (1995).

<sup>65</sup> Interlocutory Appeal, par 21.

<sup>66</sup> *Ibid*, par 19.

which is complete once the agreement between the conspirators has been reached. No step needs to have been taken in furtherance of that agreement before the crime of conspiracy has been committed. On the other hand, joint criminal enterprise is available as one mode of individual criminal responsibility by which a crime may be committed, but only where the agreed (or contemplated) crime has in fact been committed. The absence of *conspiracy* from the Statute (other than in relation to the crime of genocide) is irrelevant to the issues raised in this appeal.

24. As to (c), Ojdanić relies upon the suggestion by two authors, said to have been “involved in the creation of the International Tribunal”,<sup>67</sup> that –

[...] the principles of individual criminal responsibility to be applied by the International Tribunal do not include the controversial notion of collective responsibility based upon membership in a criminal organisation.

The notion of collective responsibility in terms of participation in a criminal conspiracy is reflected in the definition of the crime of genocide contained in Article 4 of the Statute.<sup>68</sup>

Ojdanić interprets this passage as supporting the exclusion of joint criminal enterprise from Article 7.1 because it is equivalent to a “collective responsibility based upon membership in a criminal organisation”.<sup>69</sup> Neither the first nor the third of the categories of joint criminal enterprise as defined by the *Tadić* Conviction Appeal Judgment could be equated to the specific crime of membership of a criminal group or organisation declared to be criminal by the International Military Tribunal to which reference has already been made.<sup>70</sup> The cases which are said to support the second category may perhaps be ambivalent, an issue to which I return later, but nothing said in that judgment equates the second category to that specific crime either. And, to repeat what I said earlier,<sup>71</sup> that specific crime is entirely distinct from a crime committed by way of participation in a joint criminal enterprise.

25. I reject all three arguments put by Ojdanić for disputing the ruling by the Appeals Chamber in the *Tadić* Conviction Appeal Judgment that Article 7.1 of the Tribunal’s Statute contemplates an individual criminal responsibility for participation in a joint criminal enterprise to commit a crime within the Tribunal’s jurisdiction. The fact remains, however, that the Article does not expressly refer to such a mode of individual criminal responsibility. The issue now to be determined is whether it nevertheless falls within the words of that Article.

<sup>67</sup> Morris & Scharf (*op cit*), Preface, p xiv.

<sup>68</sup> *Ibid*, p 95.

<sup>69</sup> Interlocutory Appeal, par 25.

<sup>70</sup> Paragraph 17, *supra*.

<sup>71</sup> *Ibid*.

26. The Report of the UN Secretary-General proposing the Statute for an international criminal tribunal for the former Yugoslavia stated the Secretary-General's belief that –

[...] all persons who participate in the planning, preparation or execution of serious violations of international humanitarian law in the former Yugoslavia contribute to the commission of the violation and are, therefore, individually responsible.<sup>72</sup>

This is a valid aid to the interpretation of Article 7.1 of the Statute, and of the width to be given to the phrase “[a] person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime” in that Article. In my view, the verb “commit” is sufficiently protean in nature as to include participation in a joint criminal enterprise to commit the crime.<sup>73</sup> Such an approach does *not* amount to an argument that “all modes of liability not specifically excluded in the [Statute] of the Tribunal are therefore included”, as Ojdanić has submitted.<sup>74</sup> It is merely the application of a clear statement of intention by those who drafted the Statute that “all” persons who participated in the commission of a crime are individually responsible for the commission of that crime, without argument as to any technicalities concerning the way such a participation should be described. Notwithstanding the unsubstantiated assertion by Ojdanić that the application of the *contra preferentem* or *in dubio pro reo* principle would exclude the availability of an individual criminal responsibility for participation in a joint criminal enterprise,<sup>75</sup> there is no ambiguity involved in Article 7.1 of the Statute which would require the application of such a principle.

27. I am satisfied that individual criminal responsibility for participation in a joint criminal enterprise to commit a crime within the Tribunal's jurisdiction is included within Article 7.1 of the Tribunal's Statute.

***(2)(b) Was the Tadić Conviction Appeal Judgment correct in the definition it gave of the elements and application of a joint criminal enterprise as a mode of individual criminal responsibility?***

28. It is obvious from what I have already written that I do have difficulties with some of the statements made by the Appeals Chamber in the *Tadić* Conviction Appeal Judgment upon this issue. If, however, the elements and application of a joint criminal enterprise are interpreted in

<sup>72</sup> Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808 (1993), 3 May 1993, par 54.

<sup>73</sup> This may have been what was intended in the *Tadić* Conviction Appeal Judgment by the perhaps cryptic statement, at par 188, that Article 7.1 of the Statute:

“[...] covers first and foremost the physical perpetration of a crime by the offender himself, or culpable omission of an act that was mandated by a rule of criminal law. However, the commission of one of the crimes envisaged in Articles 2, 3, 4 or 5 of the Statute might also occur through participation in the realisation of a common design or purpose.”

<sup>74</sup> Interlocutory Appeal, par 39.

<sup>75</sup> *Ibid*, pars 31-34.

the way I have stated in this Opinion,<sup>76</sup> many of the difficulties I have are removed. Some difficulties nevertheless remain.

29. One difficulty I still have is with the description of “a form of accomplice liability” given by the *Tadić* Conviction Appeal Judgment to the individual criminal responsibility which arises from the participation of an accused in a joint criminal enterprise to carry out a crime specified in the Tribunal’s Statute.<sup>77</sup> “Accomplice” is a term of uncertain reference. It means one who is associated with another in the commission of a crime, but his association may be either as a principal or as one who aids and abets the principal. The *Tadić* Conviction Appeal Judgment does not identify which of these two meanings it intended to convey by the description it gave, and accordingly the description may be productive of confusion.<sup>78</sup> In my opinion, it is not appropriate to describe a participant in a joint criminal enterprise as one who merely aids and abets, even though such a description may well bring a joint criminal enterprise easily within the terms of Article 7.1 of the Statute (“[a] person who [...] otherwise aided and abetted in the [...] execution of a crime referred to in articles 2 to 5 of the present Statute”).<sup>79</sup> It would not be appropriate because, as the *Tadić* Conviction Appeal Judgment itself acknowledges, such a participant must be distinguished from one who merely aids and abets.<sup>80</sup> The main distinction between the two relates to the state of mind which must be established. The participant in the basic form of joint criminal enterprise must share with the person who physically carried out the crime the state of mind required for that crime; the person who merely aids and abets must be aware of the essential elements of the crime committed, including the state of mind of the person who physically carried it out, but he need not share that state of mind.<sup>81</sup>

30. Another difficulty which remains is the existence, as a separate category of joint criminal enterprise, of the second category formulated in the *Tadić* Conviction Appeal Judgment, in which all of the participants are members of military or administrative groups acting pursuant to

<sup>76</sup> Paragraphs 5-13, *supra*.

<sup>77</sup> *Tadić* Conviction Appeal Judgment, par 220.

<sup>78</sup> Considerably earlier in the Judgment, at par 192, the following statement is made:

“[...] to hold criminally liable as a perpetrator only the person who materially performs the criminal act would disregard the role as co-perpetrators of all those who in some way made it possible for the perpetrator physically to carry out that criminal act. At the same time, depending upon the circumstances, to hold the latter liable only as aiders and abettors might understate the degree of their criminal responsibility.”

That statement is consistent with what follows in the text of my Opinion. My concern, however, is the lack of clarity in the text of the *Tadić* Conviction Appeal Judgment at par 220.

<sup>79</sup> In this sense, the second sentence of par 19 of the Appeals Chamber’s Decision in the present appeal may contribute to that confusion.

<sup>80</sup> *Tadić* Conviction Appeal Judgment, par 229.

<sup>81</sup> *Aleksovski* Appeal Judgment, par 162.



a concerted plan.<sup>82</sup> Many of the cases considered in that Judgment concerning this second category appear to proceed upon the basis that certain organizations in charge of the concentration camps, such as Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (the "SS"), were themselves criminal organisations declared to be so by the Nuremburg Tribunal,<sup>83</sup> so that the participation of an accused person in the joint criminal enterprise charged would be inferred merely from his membership of that criminal organization. This has no doubt contributed to the confusion of thought on the part of Ojdanić, who has adopted clearly erroneous criticisms that the *Tadić* Conviction Appeal Judgment has, by recognizing a joint criminal enterprise, adopted a principle of collective responsibility.<sup>84</sup> I am not satisfied that the Appeals Chamber in the *Tadić* Conviction Appeal Judgment demonstrated a sufficiently firm basis for the recognition of these cases as a separate category of joint criminal enterprise.

31. A third difficulty which remains is the use in the *Tadić* Conviction Appeal Judgment of the words "perpetrator" and "co-perpetrator[s]", apparently as terms of art, when dealing with the concept of a joint criminal enterprise. The former is used to describe the person who physically executed the crime charged and the latter to describe those who otherwise participated in the joint criminal enterprise.<sup>85</sup> The use of such terms has not always been consistently followed in subsequent cases,<sup>86</sup> but it appears to result from a distinction which exists in the civil law system whereby a person who merely aids and abets the perpetrator (or the person who physically executes the crime) is subject to a lower maximum sentence. The adoption of the term "co-perpetrator" is apparently intended for that purpose to distinguish the participant in a joint criminal enterprise from one who merely aids and abets. No such distinction exists in relation to sentencing in this Tribunal, and I believe that it is unwise for this Tribunal to attempt to categorise different types of offenders in this way when it is unnecessary to do so for sentencing purposes. The Appeals Chamber has made it clear elsewhere that a convicted person must be punished for the seriousness of the acts which he has done, whatever their categorisation.<sup>87</sup>

<sup>82</sup> See par 6, *supra*.

<sup>83</sup> Charter of the International Military Tribunal, II. Jurisdiction and General Principles, Articles 9-10.

<sup>84</sup> See, for example, Interlocutory Appeal, pars 41, 44-45, 59, 65.

<sup>85</sup> These uses are most clearly identified in the *Tadić* Conviction Appeal Judgment at pars 186-200, but particularly in par 192.

<sup>86</sup> For example, in *Prosecutor v Krstić*, IT-98-33-T, Judgment, 2 Aug 2001, a distinction was sought to be drawn between an accomplice and a co-perpetrator.

<sup>87</sup> *Aleksovski* Appeal Judgment, par 182; *Delalić* Conviction Appeal Judgment, pars 429-430.

### Other issues raised by Ojdanić

32. Ojdanić has submitted that neither of the subsequent decisions of the Appeals Chamber in *Furundžija* or *Delalić* provide any assistance or binding propositions of law beyond what was stated in the *Tadić* Conviction Appeal Judgment.<sup>88</sup> I agree with that submission.

33. He has also submitted that, even if “one accepts the validity of the common purpose doctrine set forth in the *Tadić* dicta”, that doctrine has been “transformed into organisational liability” by its expansion into a “joint criminal enterprise liability” by subsequent Trial Chamber decisions.<sup>89</sup> This submission ignores the fact that “joint criminal enterprise” is merely the label which has been preferred to the many other labels (including “joint criminal enterprise”) which the Appeals Chamber gave to the concept in the *Tadić* Conviction Appeal Judgment.<sup>90</sup> This is but another version of the “collective responsibility” argument which I have already described as erroneous.<sup>91</sup> Apart from providing some examples redolent with hyperbole, support for this argument is sought to be found mainly in an article published in 2000,<sup>92</sup> which includes the following remarkable statement in relation to the *Tadić* Conviction Appeal Judgment:

It is therefore in our opinion crucial that certain concepts in international criminal law, such as the common purpose doctrine, should not lead to a re-collectivation of responsibility [...] In our view, this should not, however, lead to criminal responsibility based upon simple membership of the group and knowledge of the policy of the group.

There is nothing in the *Tadić* Conviction Appeal Judgment which supports the existence of an individual criminal responsibility for participation in a joint criminal enterprise upon the basis stated in the second sentence of that statement.

34. Finally, Ojdanić has submitted that the relevant concept – be it common purpose or joint criminal enterprise – was created only on 15 July 1999 by the *Tadić* Conviction Appeal Judgment, and that its application to the charges against him offends the principle of legality, or *Nullum Crimen Sine Lege*. Upon this issue, I am content to agree with what has been said by the Appeals Chamber in the present appeal.<sup>93</sup>

35. I would dismiss the appeal for all these reasons.

<sup>88</sup> Interlocutory Appeal, pars 54-58.

<sup>89</sup> *Ibid*, par 59-61.

<sup>90</sup> See par 5, *supra*.

<sup>91</sup> Paragraph 30, *supra*.

<sup>92</sup> The Judgment of the ICTY Appeals Chamber on the Merits in the *Tadić* Case, *International Review of the Red Cross*, Sassoli & Olson.

<sup>93</sup> Paragraphs 33-44.

### Judicial precedent – an addendum

36. Judge Shahabuddeen has written a Separate Opinion in which he seeks to respond in relation to some of the issues I have raised concerning what was said in the *Tadić* Conviction Appeal Judgment; on the three issues he has chosen to discuss, he expresses himself as being content with that judgment. I do not propose to say anything further concerning those issues. I must, however, deal with one matter of significance also raised by Judge Shahabuddeen, the issue of judicial precedent. Because that issue is of importance to the general jurisprudence of the Tribunal, and because Judge Shahabuddeen has expressed his view, I feel obliged to express my own view upon that issue.

37. In the *Aleksovski* Conviction Appeal Judgment, when discussing the issue of judicial precedent, the Appeals Chamber said that the ruling which is followed in accordance with judicial precedent is “the legal principle (*ratio decidendi*)” of the previous decision,<sup>94</sup> and that a proper construction of the Tribunal’s Statute “requires that the *ratio decidendi* of the [Appeals Chamber’s] decisions is binding on Trial Chambers”,<sup>95</sup> so as to comply with the intention of the Security Council that the Tribunal applies “a single, unified, coherent and rational corpus of law”.<sup>96</sup> The need for coherence was stated as being:<sup>97</sup>

[...] particularly acute in the context in which the Tribunal operates, where the norms of international humanitarian law and international criminal law are developing, and where, therefore, the need for those appearing before the Tribunal, the accused and the Prosecution, to be certain of the regime in which cases are tried is even more pronounced.

There was no other discussion by the Appeals Chamber of just what is comprehended within the *ratio decidendi* of a previous decision.

38. Judge Shahabuddeen has argued (1) that a distinction should be drawn between (a) the *ratio decidendi* of a decision and (b) the “authority it exerts over the way other cases are decided”,<sup>98</sup> and (2) that there is an exception to the authority normally exerted by a *ratio decidendi* where the ruling in question was not the result of the court’s own deliberate inquiry and considered finding.<sup>99</sup> Where such a finding is relevant to a manifestly important point bearing on the court’s jurisdiction, he says, it cannot be relegated to the ranks of *obiter dicta*, it is *ratio decidendi* and exerts the force normally flowing from this.<sup>100</sup> He draws attention to the fact

<sup>94</sup> Paragraph 110.

<sup>95</sup> Paragraph 113.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

<sup>98</sup> Separate Opinion of Judge Shahabuddeen, p 5.

<sup>99</sup> *Ibid.*, p 6.

<sup>100</sup> *Ibid.*, p 7.

that the Tribunal is not in the position of a domestic court operating with a largely settled corpus of law, so that “its juristic mission is more exploratory than is that of a normal domestic court”.<sup>101</sup>

39. In my respectful opinion, both this rather fluid concept of what is *ratio* and what is *obiter* and the stated justification for being “more exploratory” are inconsistent with what was said in *Aleksovski*, and both overlook what *must* be regarded as the binding nature of every *ratio decidendi* and what *may* be regarded as the persuasive nature of some *obiter dicta*.

40. Judge Shahabuddeen found helpful a statement concerning the issue made by Mr Justice Cairns sitting at first instance,<sup>102</sup> when his Lordship:

(1) referred to

(a) the decision of the Court of Appeal in *Candler v Crane, Christmas & Co*,<sup>103</sup> which had held that there could be no liability for an honest but negligent misrepresentation unless (to put it broadly) there was a contractual relationship between the parties, and

(b) the subsequent ruling by the House of Lords, in *Hedley Byrne & Co Ltd v Heller & Partners Ltd*,<sup>104</sup> that such a liability *could* arise otherwise, since the law implied a duty of care when a party seeking information from a party possessed of a special skill trusts him to exercise due care, and that party knew or ought to have known that reliance was being placed on his skill and judgment;<sup>105</sup> and

(2) then said that, upon the basis that the House of Lords had also held that, in that particular case, there had been an express disclaimer of responsibility so that no such duty was implied, an academic may suggest that first instance judges would remain bound by the earlier decision of the Court of Appeal in *Candler v Crane, Christmas*.

41. With all due respect to both Mr Justice Cairns and Judge Shahabuddeen, the example chosen is not a good one. In the *Hedley Byrne Case*, the ultimately unsuccessful respondent had argued that the decision in *Candler v Crane, Christmas* denied the claim for negligent misrepresentation, and that that decision was right in principle and in accordance with earlier authorities.<sup>106</sup> Whether that decision was right was the principal issue discussed by their Lordships in the speeches delivered. Lord Reid stated that, if the appellant’s argument was

<sup>101</sup> *Ibid*, p 8.

<sup>102</sup> *WB Anderson and Sons Ltd v Rhodes (Liverpool) Ltd* [1967] 2 All ER 850 at 857.

<sup>103</sup> [1951] 2 KB 164.

<sup>104</sup> [1964] AC 465.

<sup>105</sup> *Ibid*, at 486, 502, 514.

<sup>106</sup> *Ibid*, at 476; see also the speech of Lord Devlin (at 515).

correct, then *Candler v Crane, Christmas* “was wrongly decided”.<sup>107</sup> He then discussed the cases which had led to that decision, saying of one (for example) that the decision had been wrong to limit the duty of care to where there was a contract, and that the *ratio* of the leading case upon which that decision had relied (*Le Lievre v Gould*<sup>108</sup>) was “wrong”.<sup>109</sup> Lord Morris of Borth-y-Gest stated that:<sup>110</sup>

My Lords, I consider that it follows and that *it should now be regarded as settled law* that if someone possessed of a special skill undertakes, quite irrespective of contract, to apply that skill for the assistance of another person who relies upon such skill, a duty of care will arise. [...]

His Lordship then identified the “settled law” in the terms already described. Lord Hodson agreed with what had been said by Lord Morris.<sup>111</sup> Lord Pearce, like Lord Reid, stated that the *ratio* in *Le Lievre v Gould* was wrong.<sup>112</sup>

42. With the weight of that opinion, the headnote of the judgment in *Hedley Byrne* published in the authorised law reports correctly described the decision of the Court of Appeal in *Candler v Crane, Christmas* as having been “overruled”.<sup>113</sup> No judge sitting at first instance who had even the slightest connection with reality could have understood that he was still bound by that decision of the Court of Appeal. Even if the ruling of the House of Lords could still be regarded as, strictly, *obiter* because of the conclusion that the facts of the *Hedley Byrne Case* did not fall within the principle stated, it would have been *obiter* of the most persuasive kind possible. My own view agrees with the editor of the authorised law reports, that the House of Lords had firmly overruled the decision by the Court of Appeal in *Candler v Crane, Christmas* but, whichever way the *Hedley Byrne* judgment is viewed, it does *not*, with respect, support Judge Shahabuddeen’s argument that the binding nature of the *ratio decidendi* of a previous decision depends upon the rather fluid concept which he states.

43. I therefore maintain my understanding that the *ratio decidendi* of a decision is the statement of legal principle (express or implied) which was necessary for the disposal of the case, whereas an *obiter dictum* is such a statement of legal principle which goes beyond what was necessary for the disposal of the case. The distinction drawn by Judge Shahabuddeen is contrary

<sup>107</sup> *Ibid*, at p 487.

<sup>108</sup> [1893] 1 QB 491.

<sup>109</sup> [1964] AC 465, at 488-489.

<sup>110</sup> *Ibid*, at 502-503. The emphasis did not appear in the original and has been added by me.

<sup>111</sup> *Ibid*, at 514.

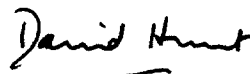
<sup>112</sup> *Ibid*, at 535.

<sup>113</sup> *Ibid*, at 466.

to what was said by the Appeals Chamber in *Aleksovski*, and, if accepted, that distinction would destroy the cohesion which the *Aleksovski* Conviction Appeal Judgment sought to impose.

Done in English and French, the English text being authoritative.

Dated this 21<sup>st</sup> day of May 2003,  
At The Hague,  
The Netherlands.



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Judge David Hunt

**[Seal of the Tribunal]**

## ANNEX

## GLOSSARY OF ABBREVIATIONS FOR FINAL TRIAL BRIEF

Abbreviation in Prosecution Final Trial Brief	Full Citation
AA/AAA	Anti-aircraft/ anti-aircraft artillery
AFL	Armed Forces of Liberia
AFRC	Armed Forces Revolutionary Council (see Judicially Noticed Fact M)
AFRC Adjudicated Fact	The adjudicated facts noted in the decision <i>Prosecutor v. Taylor</i> , SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgment Pursuant to Rule 94(B), 23 March 2009
AFRC Case	<i>Prosecutor v. Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu</i> , SCSL-04-16
Agreed Fact	One of the statements of fact agreed between the Prosecution and the Defence and listed in paragraphs 1 to 36 <i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-227, Public Joint Filing by the Prosecution and Defence Admitted Facts and Law, 26 April 2007
Agreed Statement of Law	The statement of law agreed between the Prosecution and the Defence and listed at paragraph 37 of <i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-227, Public Joint Filing by the Prosecution and Defence Admitted Facts and Law, 26 April 2007
AK 47 or AK	Kalashnikov automatic rifle, assault rifle

Amended Case Summary	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-327, Prosecution Notification of Filing of Amended Case Summary, 3 August 2007
API	Additional Protocol I
APII	Additional Protocol II
APC	All People's Congress
Art.	Article
ATU	Anti-Terrorist Unit
Brief	This Prosecution final trial brief filed pursuant to Rule 86(b)
Case Summary	The case summary accompanying the Amended Indictment filed on 17 March 2006 (SCSL-03-01-I-75)
CDF	Civil Defence Force (see Agreed Fact, para. 16 & Judicially Noticed Fact M)
Count	A count specified in the Indictment
DCT-[number]	Defence witness with pseudonym
District	One of the districts of Sierra Leone referred to in Judicially Noticed Fact A including the city of Freetown and the Western Area
ECOMOG	ECOWAS Cease-fire Monitoring Group (see Judicially Noticed Fact AA)
ECOWAS	Economic Community of West Africa (see Judicially Noticed Fact I)
Exh. D-[number]	Defence Exhibit
Exh. P-[number]	Prosecution Exhibit
First Amended Indictment	Prosecution's first amended indictment against Charles Taylor ( <i>Prosecutor v. Taylor</i> , SCSL-2003-01-I-075, Amended Indictment, 17 March 2006)
fn	Footnote
fns	Footnotes



Freetown Invasion	The attack on Freetown by <i>inter alia</i> RUF and AFRC forces on or about 6 January 1999 (see Agreed Fact 31)
G3	An assault rifle
GMG	Grenade machine gun
GoL	Government of Liberia
GoSL	Government of Sierra Leone
GPMG	General purpose machine gun
ICC	International Criminal Court
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
Indictment	Prosecution's Second Amended Indictment against Charles Taylor ( <i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-263, Public Prosecution's Second Amended Indictment, 29 May 2007)
Indictment Crimes	Crimes charged in Counts 1 through 11 of the Indictment
Indictment Period	Between about 30 November 1996 and about 18 January 2002
Indictment Perpetrators <sup>1</sup>	RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters
Intervention	The operation whereby ECOMOG ousted the AFRC/RUF junta from power on or about 14 February 1998 (see Judicially Noticed Fact AD).
ITC	International Trust Company of Liberia
JPK	Johnny Paul Koroma
Judicially Noticed Fact	One of the judicially noticed facts listed in Annex A of <i>Prosecutor v. Taylor</i> ,

<sup>1</sup> This term is used only in the Section of the Brief dealing primarily with the crime base evidence.

	SCSL-03-01-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007
Junta	The regime formed in May 1997 by the AFRC and the RUF to govern Sierra Leone, which regime governed Sierra Leone until the Intervention (see Agreed Facts, paras. 17-19, 30 & Judicially Noticed Fact AD)
LAR	Light automatic rifle
LBDI	Liberian Bank for Development and Investment
LISCR	Liberian International Ship and Corporate Registry
LURD	Liberians United for Reconciliation and Democracy
NPFL	National Patriotic Front of Liberia
NPRAG	National Patriotic Reconstruction Assembly Government
Original Indictment	Prosecution's original indictment against Charles Taylor ( <i>Prosecutor v. Taylor</i> , SCSL-2003-01-I-001, Indictment, 7 March 2003)
para.	paragraph
paras.	paragraphs
p.	page
pp.	pages
Pre-Trial Brief	The Prosecution's Pre-Trial Brief filed pursuant to Rule 73bis on 4 April 2007 (SCSL-03-01-PT-218)
RIA	Roberts International Airport
RPG	Rocket propelled grenade
RUF	Revolutionary United Front (see

	Judicially Noticed Fact M)
RUF Case	<i>Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao</i> , SCSL-04-15
Rules	Rules of Procedure and Evidence of the Special Court for Sierra Leone (as amended)
SAM-7 (sometimes referred to as a “chaser”)	Shoulder launch surface to air missile
SBU	Small Boys Unit
SGU	Small Girls Unit
SLA	Sierra Leone Army
SOD	Special Operations Division
Statute	Statute of the Special Court for Sierra Leone
TF1-[number]	Prosecution witness with pseudonym
TT	Trial Transcript
ULIMO	United Liberation Movement of Liberia for Democracy
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNAMSIL	United Nations Mission in Sierra Leone (see Agreed Fact, para. 22)
UNOMSIL	United Nations Observer Mission to Sierra Leone (see Agreed Fact 21)
UNOMIL	United Nations Observer Mission in Liberia (see Agreed Fact, para. 20)
WMU	Witness Management Unit of the Office of the Prosecutor
WVS	Witness and Victims Section