

The Opening Statement of

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The Prosecutor

With

Mr. Abdul Tejan-Cole
Trial Attorney

Special Court for Sierra Leone

Against

Issa Hassan Sesay

Morris Kallon

Augustine Gbao

An Amended Consolidated Indictment

Case No. SCSL—2004-15-PT

5 July 2004
Freetown, Sierra Leone

Your Honours this opening, as we have done in the past, will be in two parts. I will set the stage of the conflict, outline the general crimes, allegations, charges, and how we will prove this case and then turn it over to Mr. Abdul Tejan-Cole to continue reviewing the horrific crimes we allege were caused by the accused in this joint indictment.

The Introduction

May it please the Court...

This is a tale of horror, beyond the gothic into the realm of Dante's inferno...

They came across the border, dark shadows, on a warm spring day, 23 March of 1991. Hardened rebels trained by outside actors from Liberia, Libya and Burkino Faso...

These rebels consisting of Sierra Leoneans and Liberians were assisted by Libyan Special Forces. Among their goals the diamond fields of eastern Sierra Leone. Their motive—power, riches, and control in furtherance of a joint criminal enterprise that extended from West Africa north into the Mediterranean Region, Europe, and the Middle East. Blood diamonds are the common thread that bound together this hellish criminal enterprise. The rule of the gun reigned supreme.

Approximately 250 armed members of the Revolutionary United Front, or RUF, were the initial invasion force backed up by members of the National Patriotic Front for Liberia (NPFL) led by Charles G. Taylor. This invasion force was under the command of Foday Sankoh.

A few weeks earlier, on 27 February 1991, at the planning conference for the invasion held at Gbarnga, Liberia, Foday Sankoh had been delighted with the initial overall plan, this blueprint of death and destruction, and he unconditionally promised to work with the NPFL training command to ensure professional and tactical military training of his forces. Also, at this fateful meeting, Charles Taylor told Sankoh to recruit through involuntary conscription any and all able bodied men and women, boys and girls, within

captured areas. Sankoh was told by Taylor to train them and make them part of the fighting forces of the RUF and—this is important—those who refused should be deemed and treated as enemies of the revolution.

At this meeting on 27 February, Charles Taylor appointed Benjamin Yeaten and others to be the ones to initially go into Sierra Leone. Charles Taylor told Foday Sankoh that Benjamin Yeaten was his personal representative with responsibility for bringing back all the diamonds and gold that would be mined from the Kono District as a way to help finance the war about to be started. Taylor also told Sankoh the diamonds and gold would be forwarded to Burkino Faso and Libya to pay for additional weapons, ammunition, food and other supplies. The initial joint criminal enterprise was thus laid out for all to understand.

To show the extent of the detailed planning around this joint criminal enterprise we allege that those sitting around the planning table in Gbarnga that sad and tragic day included not only Sierra Leoneans, but also Liberians, to include: Isaac Mussah, NPFL Battle Front Commander, Oliver Varney, NPFL War Propaganda Advisor, Oliver Council, NPFL Deputy Training Commandant, Grace Beatrice Minor, NPFL Political Advisor, Brigadier John Tarnue, NPFL Training Commandant, and Joe Mulbah, NPFL Information Officer. Apart from Foday Sankoh, another Sierra Leonean sitting at the table was—Augustine Gbao—one of the indictees in this war crimes trial.

The military training was done in Liberia at Camp Jackson Maama, a former artillery base located in Bong County. The training, done under the direction of Brigadier Tarnue, was completed by Special Forces from Libya and Burkina Faso.

As these forces stepped across the border, they ignited a fatal spark setting off a brush fire that consumed an entire nation and people, threatening the peace and security of all of West Africa. The acrid smell of this smoke of rebellion and terror began to permeate into the Eastern and Southern Provinces—on 27 March at Bomaru, then into Koidu in the Kailahun District; and, one day later, 28 March, the Pujehun District across the Mano River into Zimmi.

The Revolutionary United Front, the infamous RUF, was backed by a wide-ranging joint criminal enterprise that had little real political motive other

than to assist in the overall takeover of resource rich areas of West Africa by cynical criminal actors, warlords, and heads of state who had in their personal and individual capacities operated together for decades in a dark corner of the world—a world without law and accountability. This joint criminal enterprise was an extension of individuals who manipulated the institutions, assets, and governmental structures for their own personal criminal gain.

It is important to note at this juncture that the Republic of Sierra Leone at the time was no paradise. The history of Sierra Leone has been itself replete with coups, corruption, and failed governments. No one here today will be saying that the system was working. At the time there was rightfully a building resentment against the current government. We are not going to question whatever initial politics surrounded the RUF. We are going to show, however, that this abuse of a political process and the discontent of the citizens of Sierra Leone was a mask for these actor's own criminal purposes. This trial is not, cannot be, about this subterfuge of frustrated political aspirations, but about war crimes and crimes against humanity.

Cruelly lead by Charles Taylor, Samuel Bockarie and Foday Sankoh, these war crimes indictees who now stand before this tribunal, before this country, before mankind to face justice, are the evil spawn of this unholy union, this joint criminal enterprise—Issa Sesay, Battle Field Commander and leader of the RUF and an AFRC/RUF Junta Member; Morris Kallon, Battle Field Commander and an AFRC/RUF Junta Member; and Augustine Gbao Overall Security Commander of the AFRC/RUF and senior RUF commander of Kailahun District and the Makeni area.

These were the leaders after 1996, the commanders of an army of evil, a corps of destroyers, a brigade of executioners bent on the criminal takeover of Sierra Leone, once the Athens of West Africa, today, due to these indictees, a sodden backwater, marred and broken, lapping against the shores of civilization. Ruin was their motto and destruction was their creed.

Throughout this war crimes trial against Sesay, Kallon, and Gbao, the phantoms of the deceased indictees Foday Sankoh and Samuel Bockarie will be ever present in this hall of justice. Additionally, Charles Taylor would be sitting next to these accused war criminals today had he been turned over to this tribunal for a fair trial. Their alleged crimes against humanity cannot justly or practically be ignored, as they were the handmaidens to the beast—

the beast of impunity that walked this burnt and pillaged land—its bloody claw marks in evidence on the backs of the hundreds of thousand of victims in this tragic conflict begun on 23 March of 1991.

Today, before you these indictees Sesay, Kallon, and Gbao, are charged with:

Crimes against Humanity;

Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II, and;

Other Serious Violations of International Humanitarian Law.

All in violation of Articles 2, 3, and 4 of the Statute of the Special Court.

General Allegations

We generally allege that:

There was a state of armed conflict within Sierra Leone. That the organized armed factions in this conflict included the Revolutionary United Front, the Civil Defense Forces, and the Armed Forces Revolutionary Council.

Initially the RUF led by Foday Sankoh was founded in 1988 or 1989 in Libya and organized armed operations began in Sierra Leone, as I've said, in March of 1991. During the ensuing armed conflict, the RUF forces were also referred to as the "RUF", "rebels" and "People's Army".

On 30 November 1996 Sankoh signed a peace agreement with the President of Sierra Leone which brought a temporary cessation to active hostilities which was shortly thereafter recommenced by the rebel forces.

The AFRC was founded by members of the Armed Forces of Sierra Leone who seized power from the elected government by a coup d'état on 25 May 1997. Soldiers of the Sierra Leone Army, the SLA, comprised the majority of the AFRC membership led by the indictee Johnny Paul Koroma, who is presently at large.

It must be noted that we will show clearly that there is a key and important linkage and union between the RUF and the AFRC factually that began in the summer of 1997 lasting throughout the rest of the conflict. The RUF and the AFRC in large measure became one and the same. The facts and details of this campaign of destruction perpetrated by these two organizations are forever intertwined in this macabre dance of death. Evidence will and must be presented in this criminal trial to prove the war crimes and crimes against humanity perpetrated by both of these linked units were in fact done by Sesay, Kallon, and Gbao, along with other indictees.

Shortly after the 25 May 1997 coup, Johnny Paul Koroma invited Foday Sankoh and the RUF to join the AFRC. This was accepted by Sankoh and the AFRC and the RUF acted jointly thereafter. The AFRC/RUF were referred to as “Junta”, “rebels”, “soldier”, “SLA”, “ex-SLA” and “Peoples Army”. After the coup, a governing body was created called the Supreme Council which included the leaders of both the RUF and the AFRC.

About 14 February 1998, after the Junta was forced from power on behalf of the ousted government, this AFRC/RUF alliance continued. The facts and evidence that will be offered show that this alliance of the AFRC/RUF committed these crimes, led by the indictees before you today in the dock.

On 7 July 1999 at Lome, Togo, a peace agreement was signed by the President of Sierra Leone and Foday Sankoh once again. However, the hostilities sadly continued, the AFRC/RUF ignoring the peace.

Sesay, Kallon, and Gbao and all members of the organized armed factions engaged in the fighting within Sierra Leone, where all the offenses were committed after 30 November 1996, were required to abide by International Humanitarian Law and the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 12 August 1949, and the Additional Protocol II to the Geneva Conventions.

These acts and omissions charged in this joint indictment as crimes against humanity were committed as part of a widespread or systematic attack directed against the civilian population of Sierra Leone, *among other general allegations*.

Individual Criminal Responsibility

At all times relevant to this indictment Issa Hassan Sesay occupied various and key leadership positions within the AFRC/RUF forces to include the RUF Area Commander, Battle Group Commander, and eventually Battle Field Commander of the RUF, subordinate at these various times only to Samuel Bockarie, and eventually subordinate only to the leader of the RUF, Foday Sankoh or the leader of the AFRC, Johnny Paul Koroma. After Sankoh's incarceration, Sesay directed all RUF activities in Sierra Leone.

Morris Kallon, at all times relevant to this indictment also was a senior officer in the RUF, Junta, and AFRC/RUF forces, to include being a member of the Junta governing body. During the pertinent times relevant to this joint indictment Kallon served as a Deputy Area Commander, Battle Field Inspector, Battle Group Commander under Sesay, Sankoh, and Koroma, and eventually on or about June of 2001 becoming RUF Battle Field Commander subordinate to Sesay who was chosen by Sankoh to have direct control over all RUF operations and to the AFRC leader Johnny Paul Koroma.

During the times relevant to this joint indictment Augustine Gbao was a senior officer and a commander within the RUF and the AFRC/RUF forces. Gbao joined the RUF in 1991 and was present at the planning session for the invasion of Sierra Leone. During his long tenure with the RUF and the AFRC/RUF, Gbao was Commander of the RUF Internal Defense Unit (in charge of all RUF Security Units), a senior RUF Commander in the Kailahun District, subordinate only to the RUF Battle Field Commander and the leader of the RUF, Foday Sankoh and the leader of the AFRC, Johnny Paul Koroma. Later Augustine Gbao, to the end of the conflict in January 2002, was the Overall Security Commander in the AFRC/RUF forces subordinate only to the leader of the RUF and the AFRC, Sankoh and Koroma respectively. Also, during this later time frame, Gbao was the Joint Commander of AFRC/RUF forces in the Makeni area subordinate only to the RUF Battle Field Commander and again the leaders of the RUF and AFRC.

In these respective key, essential, and leadership positions referred to above, Sesay, Kallon and Gbao, individually, or in concert with each other and:

Foday Sankoh,

Johnny Paul Koroma,
Samuel Bockarie, aka, Maskita,
Alex Tamba Brima, aka, Gullit,
Brima Bazzy Kamara, aka, Bazzy
Santigie Borbor Kanu, aka, 55,

And/or other superiors in the RUF, Junta, and AFRC/RUF forces, exercised authority, command and control over all subordinate members of those forces, to include acting in concert with Charles Ghankay Taylor, President (now former President) of Liberia. These indictees, along with the others above, shared a common plan, purpose or design (a joint criminal enterprise) which was to take any actions necessary to gain and exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas. The natural resources of Sierra Leone, mostly the diamonds, were to be provided to persons outside Sierra Leone in return for assistance in carrying out the joint criminal enterprise.

This joint criminal enterprise included gaining and exercising control over the population of Sierra Leone in order to prevent or minimize resistance to their geographic control, and to the population to provide support to the members of the joint criminal enterprise. For this, Sesay, Kallon, and Gbao by their acts or omissions are *individually criminally responsible* pursuant to Article 6.1 of the Statute for the crimes alleged in the joint indictment.

These crimes each of them planned, instigated, ordered, committed or in whose planning, preparation or execution each indictee otherwise aided and abetted, or which crimes were within a joint criminal enterprise in which each indictee participated or were a reasonably foreseeable consequence of the joint criminal enterprise in which each indictee participated.

In addition or in the alternative, pursuant to Article 6.3 of the Statute...

Sesay, Kallon, and Gbao while in their positions of superior responsibility and exercising effective control over their subordinates, are individually criminally responsible for the crimes alleged in this joint indictment. Each of these indictees is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and each indictee failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

Sesay, Kallon, and Gbao:

Conducted armed attacks throughout the territory of Sierra Leone, targeting civilians, humanitarian assistance personnel, and peacekeepers. These attacks were carried out primarily to terrorize the civilian population or to punish the population for failing to provide sufficient support to the AFRC/RUF, or providing support to pro-government forces. These attacks included unlawful killings, physical and sexual violence against civilian men, women, and children; abductions and looting and destruction of civilian property. Many civilians saw these crimes committed. Other victims returned to their homes or places of refuge only to find the results of these crimes—dead bodies, mutilated victims, and looted and burnt property.

As part of this campaign of terror and punishment the AFRC/RUF routinely captured and abducted members of the civilian population. Captured women and girls were raped, many of them were abducted and used as sex slaves and in forced marriage arrangements. Men and boys who were abducted were also used as forced labor; some of them held captive for years. Many abducted boys and girls were given combat training and used in active fighting. AFRC/RUF also physically mutilated men, women, and children, including amputation of hands, feet, breasts, buttocks, lips, ears, noses, genitalia, and carving AFRC or RUF on their bodies.

A witness will testify that while hiding in the Malama bush near Batmis she could hear the rebels in Batmis shout out threats to those in hiding. As it became light the witness was captured by a rebel. He hit her, pushed her down on the ground and raped her while another rebel looked on. Afterwards, other rebels armed with guns, knives and cutlasses rounded up the witness, her husband and other Sierra Leoneans. They were taken into Batmis where the witness was forced to pound fundeh (which is millet). Other civilians were forced to carry water. Some managed to escape. Those who remained were punished. The rebel commander ordered the witness's husband to be killed. The witness will testify she watched while her husband was hacked to death with a cutlass. The rebels then took hold of her right hand and with 4 long strokes of a machete cut it off. Then they chopped off her left hand telling her to go to Kabbah, who would give her hands.

The Specific Counts

For these crimes of horror, these acts of destruction... Sesay, Kallon, and Gbao as leaders and commanders within the RUF, Junta, AFRC/RUF are charged with 18 counts of war crimes and crimes against humanity. These charges are:

Terrorizing the Civilian Population and Collective Punishments:

Count 1: Acts of Terrorism, a War Crime.

Count 2: Collective Punishments, a War Crime.

Unlawful Killings:

Count 3: Extermination, a Crime against Humanity.

Count 4: Murder, a Crime against Humanity.

Count 5: Violence to life, health and physical or mental well-being of persons, in particular murder, a War Crime.

Sexual Violence:

Count 6: Rape, a Crime against Humanity.

Count 7: Sexual slavery and any other form of sexual violence, a Crime against Humanity.

Count 8: Other inhumane acts, a Crime against Humanity.

Count 9: Outrages upon personal dignity, a War Crime.

Women were especially singled out by these rabid dogs from hell for over a decade; degraded, enslaved, mutilated, assaulted, sodomized, and forced to live a life in the bush. We will show that this condition, these forced marriage arrangements, were and are inhumane acts and should forever be recognized as a crime against humanity. Sadly, even today, there are women and girls still in the bush, out there in these forced marriage arrangements. It

is now time to cry out to the world about what took place in SALONE regarding sexual violence. These despicable degradations should be the LAST time they are committed, or future warlords must know the price they will pay.

Physical Violence:

Count 10: Violence to life, health and physical or mental well-being of persons, in particular mutilation, a War Crime.

Count 11: Other inhumane acts, a Crime against Humanity.

Use of Child Soldiers:

Count 12: Conscripting or enlisting children under the age of 15 into armed forces or groups, or using them to participate actively in hostilities, an Other Serious Violation of International Humanitarian Law.

There is in Sierra Leone an entire lost generation of children, lost souls wallowing in a cesspool of physical and psychological torment. No child should be forced into situations that cause them to mutilate, maim, rape, and murder. This lost generation, victim or perpetrator, are overall victims of this joint criminal enterprise that was led by Sesay, Kallon, and Gbao among others. Children will come before you and testify in effect, “I killed people! I am sorry, I didn’t mean it.”

Abductions and Forced Labor:

Count 13: Enslavement, a Crime against Humanity.

A witness from Kono District will testify before this tribunal that he was forced to mine diamonds for the RUF near Tombodu. The conditions in these mines are beyond description and something out of the dark ages. They were tied up and forced to work 12-hour shifts at gun point and forbidden to speak. They were not paid or fed. The only sustenance was bananas and other fruit they could find. The witness will state that he saw at least 100 people brought to Tombodu each week in chains. This constant replenishment of labor was necessary as those who became ill or too weak to work were shot.

Who did the shooting? They were often children from RUF Small Boys Units. These children, as young as 11 years of age were armed with AK-47s. On order they would kill. The bodies were dumped into the water. We will show that the very top of the RUF command was aware of these conditions. The prosecution will show that Issa Sesay, the Battle Field Commander of the RUF was seen repeatedly in Tombodu collecting packages of diamonds in front of the emaciated and subjugated civilians who mined under the barrel of an AK-47. The rule of the gun prevailed in Kono.

Looting and Burning:

Count 14: Pillage, a War Crime.

Attacks on UNAMSIL Personnel:

Count 15: Intentionally directing attacks against personnel involved in a humanitarian assistance or peacekeeping mission, an Other Serious Violation of International Humanitarian Law.

Count 16: For the unlawful killings, Murder, a Crime against Humanity.

Count 17: Violence to life, health and physical or mental well-being of persons, in particular Murder, a War Crime.

Count 18: For the abductions and holding as hostage, taking of hostages, a War Crime.

Proving the Case

This case will be proven by witnesses, again the brave and courageous people of Sierra Leone who stepped forward to meet and slay the beast of impunity with the righteous sword of the law. Additionally, we will bring in members of the inner circle of this joint criminal enterprise who will testify against these war crimes indictees. In this situation in some ways, we will have to dance with the devil to put into a proper context the complete, yet truthful picture. They too will come forward to face the good people of Sierra Leone and assist them in returning the rule of law to their country.

Our approach will focus on themes to highlight the widespread and systematic nature of the crimes. Our evidence will show time and time again that these indictees criminally gutted an entire nation. Themes of terrorizing a populace, routine hackings and burnings to death; unlawful killings from Freetown to Bo, Kenema to Bombali, Kono to Kailahun, Koinadugu to Port Loko; widespread sexual violence against women and girls to include brutal multiple rapes and forced marriages; mutilations; conscription and abduction of children into the fighting forces of the AFRC/RUF; forced labor in the diamond mines; widespread taking and destruction by burning of civilian property; and attacks on peacekeepers and humanitarian assistance workers.

A tale of horror follows (and there will be many, many more tales of horror to follow in the months ahead)...

In 1999, another witness in Koidu will testify that when RUF and AFRC rebels drove the Kamajors from the town they began to burn the houses of Koidu. The witness and his family fled to a nearby village. The RUF rebels followed them in a number of trucks filled with young women. The rebel commander took the 16 year old sister of the witness. He declared loudly that he was going to take her as his wife. The witness tried to protect his younger sister, but was told he would be killed. The rebels left with around ten girls from the town, the youngest being 12. His younger sister was kept by the rebels for four long years.

The witness will testify further that upon hearing that ECOMOG troops had taken Koidu town the family decided to return, walking for four days. When they reached Penduma village it was overrun with armed RUF rebels. Twenty civilians who attempted to flee were shot dead. The rest of the survivors where grouped together and told to wait for their commander. Upon arrival the commander addressed the frightened civilians saying to them, “so you are the supporters of Tejan Kabbah.” They were separated into three groups the witness will declare: first, pregnant women, suckling mothers and children; second, men and boys; and third females—teenagers to grandmothers. Twenty-five men and women were picked out at random from the last two groups. The commander gave the order, “Una take them. Make una burn dem.” These civilians were placed in a house which was set on fire by the rebels. All of them were burned alive while the others were forced to listen to their agonized screams.

The commander then pointed at the group of females. There were around twenty. The wife of the witness was one of them. The women were raped in front of everyone. The witness will testify that he and his children were forced to watch while his wife and their mother was raped by eight different RUF rebels before she was stabbed to death with a bayonet by the last RUF rapist. Why does he recall their being eight rapists, he will be asked, because the witness had to count out loud the number as they tore into his wife. Two other women were likewise gang raped and then murdered. Note, while this is taking place, twenty-five human beings are roasting to death in a burning house, their cries adding to this true living hell on earth.

Fifteen of the men were then marched away by rebels armed with knives. Two who attempted to run were shot. The remaining thirteen had their throats cut.

Incredibly the witness and eight others still remained. Each of them was called forward and had a hand cut off. When the witness attempted to retrieve his severed hand he was struck in the back with a bayonet. The commander of the rebels told the witness to go to Tejan Kabbah.

Murder, rape, mutilation, and pillage...a slaughter in Penduma that captures the essence of the war crimes and crimes against humanity perpetrated by the RUF and AFRC, overall led by such commanders as Sesay, Kallon, and Gbao.

Concluding

Raphael Lemkin, the distinguished professor of international law reflecting upon the horrors of war crimes and crimes against humanity committed during World War II, stated that he could not believe the reality of the intent behind the crimes themselves. They seemed so much against nature, against logic, against life itself.

The reality of these crimes done in Sierra Leone that were committed by the RUF **are** so much against nature, against logic, against life itself. These crimes in our joint indictment against Sesay, Kallon, and Gbao certainly defy any logic, any reason; the pure evil of these deeds of destruction are so horrific, terrible, and devastating in their scope, words in any language do not describe the offences committed by these indictees. We are in the

presence of crimes beyond description, but our witnesses, the people of Sierra Leone, will testify in their proud, yet humble, way and relive these crimes for this tribunal.

Ironically, it must be noted, however, that the RUF coined the names of military operations which in some ways do capture the core meaning of these war crimes, “Operation Pay Yourself” and “Operation No Living Thing”, among others. As a commander what signal are you sending, what are you telling your soldiers? Loot, burn, terrorize, punish, and murder, among other inhumane acts. Ruin was their motto and destruction was their creed.

In a cable from London to the World Jewish Congress in New York, late in 1942, after seeing the evidence of the Holocaust in Europe, Ignacy Schwarzbart declared in chilling words: “believe the unbelievable”. **Believe the unbelievable...**

I will close with another tragedy in this 10-year long tale of horror...

It involves a child. He lived in a village in the Kono district. They were told that the rebels were going to attack. The witness will testify that he fled into the bush with his parents and brother, but were caught by the RUF. The rebels took his younger brother and himself to Kayima with thirteen other boys. The rebels lined the fifteen children up and offered them a choice: Join one line if they wanted to be a rebel, another line if they wanted to be freed and allowed to go home. All fifteen of these boys, and they were just boys, joined the line for freedom. It was the wrong choice. They were accused of sabotage to the revolution. To keep them from escaping each was held down, screaming, and one-by-one had AFRC and/or RUF carved into their chests with the blade of a sword. The witness was now just marked property and treated as such. He will be in this very chamber to tell you his horror story and show you his scarred chest that to this very day bears the letters: **A-F-R-C R-U-F**.

What took place in SALONE marks the limits of our language to communicate and falls outside the realm of expression. However, we will attempt to do so, one witness at a time, by the dozens, to show how the beast of impunity fed on SALONE. You most certainly will, beyond a reasonable doubt **believe the unbelievable** international crimes committed by Sesay, Kallon, and Gbao.

I will now be followed by Mr. Abdul Tejan-Cole, from Sierra Leone, who will give the second part of this opening statement.