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543. The testimony of TF2-167 states that on the 23 March Kamajors came again to Bradford.

Whilst in the bush the witness heard his children saying to the Kamajors "please leave us, please leave us." The witness went close, but remained hidden, he then saw a Kamajor shoot at his three and a half year old grandson as he was shouting, he shot at him. When they left the witness found that his grandson was dead. He then buried his grandson.⁹²⁴

544. According to TF2-166, in December 1997, a group of CDF attacked her father's house.

One CDF Mohammed Koroma of Mayenoh village took something like a knife and stabbed her father on the eye. Her father shouted 'oh, my children they are killing me.' Commander Amidou Mahoi cut her father's mouth saying 'that is the mouth that eats sweet things', he then fell on the ground and was dragged to the back of the house. At Masanki, ECOMOG officers and witness were shown a water well where the body of the witness's father was found. The witness named the persons who killed her father as Bob Marley, Hassana Atilo, Mohammed Lingon, Brima Kargbo, Salfu and Abu Tupeni, Abu Two Penny, Abu Sesay of Masanki, Ibrahim Lebanese of Roki, Moray of Small Masanki, Raymond Sesay and Mr Clay.⁹²⁵

545. TF2-165 testified that Kamajors came to Moyamba under the command of Mr Ngobeh.

A Mr Thomas, the Treasury Clerk was hunted as a collaborator; he was suspected of passing information to the AFRC. The witness gave evidence that he once saw Mr. Thomas, in the midst of Kamajors who were singing and dancing, coming towards Shenge Park. Thomas was told by the Kamajors he was free to go. Thomas ran down Siaka Stevens Street, as he was being shot at by the Kamajors and he fell down, dead. Ngobeh was in command, in control. Thomas had been shot in the back. His body was dragged away by Kamajors and his head was cut off and some of the Kamajors drank the blood, whilst others rubbed the blood on their bodies. One Kamajor took the head and placed it on his own head. They then processed with the head, going along Langowa street dancing, with the head on one of the Kamajor's head.⁹²⁶ Commander Ngobeh received his supply of arms from Talia.⁹²⁷ Defence Witness for Norman Kenie Torma,

⁹²⁴ TF2-167 Transcript 8 March 2005, p. 33.

⁹²⁵ TF2-166, Transcript 8 March 2005, pp. 67-78.

⁹²⁶ TF2-165, Transcript 7 March 2005, pp.10-14.

⁹²⁷ TF2-190, Transcript 10 February 2005, p. 38.

gave evidence that Commander Ngobeh got his appointment from Base Zero in Talia.⁹²⁸

This evidence shows the link between the acts of the three Accused at Base Zero in Talia to that of Commander Ngobeh and his band of Kamajors.

546. The Prosecution led cogent evidence of Kondewa giving direct orders for an attack on Taiama that resulted in the loss of lives of innocent civilians. TF2-190 testified that he was ordered to attack Taiama by Kondewa. "We killed some rebels." "On the civilian casualty side, I wouldn't deny it because it was a cross firing." "Later we learned civilians died."⁹²⁹
547. The Prosecution evidence reveals further instances of unlawful killings at Talia, the seat of the throne of the High Priest of the Kamajors. Witness TF2-108 saw Kamajors kill one Jusu Shalley, Baggie Vaiey and Lahai Lebbie. Witness saw Kamajors slit open Jusu Shalley's stomach with a machete.⁹³⁰ Baggie Vaiey's chest was slit open and his body dismembered by Kamajors, at Talia.⁹³¹ Lahai Lebbie was killed in Talia, the Kamajors cut down a stick and pinned him on the ground. A fire was set underneath the platform where he was laid, and he shouted his mother's name until he was completely burnt.⁹³²
548. The Prosecution's direct evidence of unlawful killing continued in the testimony of TF2-187 as she testified that she went to Gambia, Jong Chiefdom, Bonthe District. Kondewa's boys arrested her uncle and took him to the initiation bush. At the entrance to the initiation bush the boys tied up her uncle which caused him to 'scream like a pig.' Kondewa's boys then pushed him to the ground and dropped burning plastic on his eyes. He was screaming until he finally died. The witness saw the event. The attack continued until her uncle died. The boys wrapped him up and buried him in a hole.⁹³³ The witness under cross-examination gave further details of more Kamajor killings at Gambia. She testified that Kamajors made preparation for Norman's visit. Kondewa's boys captured pregnant women and took them to the court barri.⁹³⁴ The women were tied up standing. When they heard the sound of the plane, the Kamajors slit the stomach of the women and then the cut off the head of the foetus. That was done one after

⁹²⁸ Kini Torma, Transcript 2 June 2006, p. 25.

⁹²⁹ TF2-190, Transcript 10 February 2005, pp. 21-23.

⁹³⁰ TF2-108, Transcript 30 May 2005, p. 10.

⁹³¹ TF2-108, Transcript 30 May 2005, p. 12.

⁹³² TF2-108, Transcript 30 May 2005, p. 14.

⁹³³ TF2-187, Transcript 1 June 2005 at p. 14.

⁹³⁴ TF2-187 Transcript 2 June 2005 at p. 17.

another. The Kamajors put each of the head on a separate stick.⁹³⁵ The three women died. The three sticks with the heads were tied together; when that was done it was like a flag and was placed at the junction.⁹³⁶

549. The Prosecution evidence further demonstrates, beyond doubt, the direct commission of unlawful killing on the part of Kondewa in the testimony of TF2-188 when she gave evidence that her mother and she were taken to Talia; they carried loads of cartridges. Her mother said that Kondewa ordered her own death.⁹³⁷ Witness said 'I was there when she was killed.' Mohamed a Kamajor killed her mother; she was tied up and hit with a stick. The witness saw her mother's throat slit from the navel, using a machete and a stick.⁹³⁸
550. Witness TF2-109 testified that saw the killing of Lahai Lebbie, Baggie, Ngor Jusu. They were killed in Makosi (Makose), on the way to Talia. Lahai Lebbie was killed by the Kamajors-he was tied up and a tire was used to burn him.⁹³⁹
551. The Prosecution evidence reveals further Kamajor killings at Talia through the testimony of TF2-189. In her evidence, she testified that saw her husband, who was tied, being led by Nulele, the Kamajor that captured her. Nulele said he was taking her husband to Kondewa. The witness knew Kondewa to be the chief initiator. Later Nulele came back with other Kamajors singing that there was going to be a cut-throat the next morning. The husband was taken to the Yemani tree. Nulele told her husband to say his prayers and his last good-byes. The witness saw Nulele cut her husband's throat and remove his head.⁹⁴⁰
552. The Prosecution submits that the unlawful killing evidence is further demonstrated in the testimony of Witness TF2-071 who gave evidence that the Chief of Mobayei (Mobayeh) Keinechawa, told him that Kamajors led by one Momoh Sitta had attacked the town of Mobayei and killed an old woman, Musu Fai and a pregnant woman, Jebbeh Kpaka who were unable to escape.⁹⁴¹

⁹³⁵ TF2-187 Transcript 2 June 2005 at p. 19.

⁹³⁶ TF2-187 Transcript 2 June 2005 at p. 20.

⁹³⁷ TF2-188, Transcript 31 May 2005, p. 16.

⁹³⁸ TF2-188, Transcript 31 May 2005, p. 18.

⁹³⁹ TF2-109, Transcript 30 May 2005, p. 34.

⁹⁴⁰ TF2-189, Transcript 3 June 2005, p. 12.

⁹⁴¹ TF2-071, Transcript 11 November 2004, p. 70.

553. The Prosecution evidence further demonstrates more acts of unlawful killing in the Bonthe crime base when TF2-147, a 39 year old tertiary educated priest. Witness saw the body of a fisherman Kpana Manso, who had been shot by the leader of the Kamajor, Baigeh.⁹⁴² Witness also saw the body of Abu Samuka on the street whom he had been told, was killed by the Kamajors. Kamajors from Sitta he was told, had killed Abu Conteh on the grounds that he had been preparing concoctions for the soldiers.⁹⁴³
554. The Prosecution also submits that Norman, Fofana and Kondewa are responsible for murder as a consequence of their participation in the joint criminal enterprise and that all three Accused persons shared the direct intent to kill or knew of the system of killing and intended to further it.

Counts 3-4: Physical Violence and Mental Suffering:

Kondewa's 6.1 under counts 3 and 4

555. The Prosecution refers to the evidence that has already been set out in relation to superior responsibility and the widespread and systematic nature of the attacks. There is evidence of Kondewa's role as High Priest of the Kamajors and on the basis of the evidence in relation to unlawful killings referred to above, the only reasonable conclusion is that Norman together with Fofana and Kondewa planned, instigated, ordered, committed or aided and abetted the infliction of physical or mental harm and suffering.
556. The Prosecution submits that evidence has been presented from many witnesses who made specific mention of orders in relation to the offences charged under Counts 3 and 4, in particular, witnesses TF2-005, TF2-014, TF2-017, TF2-079, and TF2-222. These witnesses gave evidence of direct orders from the First Accused, in the presence of Fofana and Kondewa for the attack on civilian collaborators of the AFRC/RUF. Witness TF2-014 gave evidence that Norman stated at Base Zero that "sympathisers, collaborators and those who refuse deliberately to leave the AFRC/RUF Zone" were enemies and ordered that they should be killed.⁹⁴⁴ There is clear, unambiguous and

⁹⁴² TF2-147, Transcript 10 November 2004, p. 36.

⁹⁴³ TF2-147, Transcript 10 November 2004, p. 39.

⁹⁴⁴ TF2-014, Transcript 10 March 2005, p. 37.

unchallenged evidence before the Court from Prosecution witnesses who indicate that Norman, in the presence of the other two Accused persons, gave orders directly to subordinates for various attacks on locations across the Southern and Eastern Provinces, and that he specifically ordered subordinates to kill captured AFRC/RUF combatants, their agents, friends, families and sympathisers, otherwise known as “collaborators.” These orders to kill captured enemy combatants and civilians carry with them the requisite mental element for the infliction of serious bodily harm and physical suffering on victims that survived such attacks. The testimonies of Witnesses TF2-005, TF2-014, TF2-017, TF2-079, TF2-222, TF2-223, referred to earlier apply.

557. Witness TF2-086 provided further evidence of physical violence and mental suffering when she gave evidence that she was caught by a Kamajor called Abu Jakineh whilst in Bonthe. The witness was wounded on the wrist. She was also stabbed in the stomach with a stick and then she was struck on the neck with a machete.⁹⁴⁵
558. The Prosecution submits that there is evidence beyond reasonable doubt to demonstrate that Kondewa had actual knowledge of crimes being committed by Kamajors and by virtue of his leadership position as High Priest had reason to know that crimes were committed by his subordinates.
559. The evidence in support of this submission is revealed in the testimony of witness TF2-222 who stated that when Kamajors returned to Base Zero with situation reports from Tongo, the fighters met first with the High Priest, then proceeded to Fofana and finally to Norman.⁹⁴⁶ Inferentially, the Kondewa was the first to be made au fait with situation reports from the Tongo frontline.
560. The Prosecution submits that abundant evidence has been presented which, if accepted, could prove the elements beyond reasonable doubt that show that Kondewa was in a position of authority with knowledge of crimes committed by Kamajors, yet failed to take the necessary and reasonable measures to prevent the crimes or punish the perpetrators.⁹⁴⁷

Count 5: Looting and Burning

⁹⁴⁵ TF2-086, Transcript 8 November 2004, pp. 93-96.

⁹⁴⁶ TF2-222, Transcript 17 February 2005, p. 122.

⁹⁴⁷ TF2-005, TF2-014, TF2-017, TF2-021, TF2-068, TF2-073, TF2-147.

Kondewa's 6.1 under Count 5

561. The Prosecution submits that there is evidence that Kondewa is criminally responsible by way of planning, aiding and abetting, orders and expressed intention for looting and burning. The requisite elements for establishing the superior responsibility of Kondewa for the acts of the Kamajors have already been set out. It was not contested that there was a number of lootings and burnings in the evidence within the relevant period in the Indictment.
562. Witness TF2-073 and TF2-068 specifically mentioned Kondewa in acts related to looting. For Example, TF2-073 Witness TF2-073 gave evidence that in November of 1997, the Kamajors went on a rampage at Sembehun and looted a lot of properties from civilians and brought the loot back to their base in the town.⁹⁴⁸ The next day, a new contingent of Kamajors came to the house of the witness and surrounded him with guns. They said they were Kamajors from their high priest, Kondewa, and that they were coming from Talia, Tihun, Gbangbatoke and other villages around. The Kamajors saw the Mercedes Benz of the witness and removed it. On a Sunday, in Bo, the witness saw Kondewa relaxing at the back being driven in witness' car with a mounted flag, and an inscription on the car-"King Kindo".⁹⁴⁹ In the evidence of TF2-068, under direct examination he acknowledged seeing acts of looting whilst at Talia. He saw a truckload brought from the highway, coffee and cocoa were unloaded. They were then given to the Director of War and Kondewa.⁹⁵⁰ These two pieces of evidence are glaringly composite acts of ordering, instigating and aiding and abetting as relevant modes of liability.
563. The Prosecution submits that there is further evidence of a direct nexus between the acts of Kondewa and the offences as charged. Witness TF2-005 gave evidence that the First Accused in the presence and support of Fofana and Kondewa ordered an attack on Tongo which would determine the winner of the war.⁹⁵¹ At that time Norman authorized

⁹⁴⁸ TF2-073, Transcript 2 March 2005, pp. 30-33.

⁹⁴⁹ TF2-073, Transcript 2 March 2005, p. 45.

⁹⁵⁰ TF2-068, Transcript 17 November 2004, p. 92.

⁹⁵¹ TF2-005, Transcript 17 February 2005, Closed Session, p. 110.

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and ordered the commandeering of properties.⁹⁵² Direct criminal responsibility for looting and burning for the Bo crime base were made manifest in the testimonies of several witnesses.⁹⁵³ In Talia, in one meeting held by Norman, again in the presence and with the support of Kondewa, he instructed commanders to burn houses except the mosque, Barri, and the school.⁹⁵⁴

564. Norman gave direct orders to burn down houses and loot big shops and pharmacies in Bo.⁹⁵⁵ At that meeting Kondewa was not only present but actively supported Norman's speech and even gave his own exhortation to the Kamajors.⁹⁵⁶ Witness TF2-190 stated that whilst Kondewa in presence of Hinga Norman and Moinina Fofana was giving his contribution he said that the Kamajors should never be afraid at the battle front as his spiritual power is with them.⁹⁵⁷
565. TF2-223 testified that, while they were in Kenema under the watch and control of the Second and Third Accused they looted certain tonnage of cocoa from the premises of one ST SAAD. The testimony indicates that the Second Accused and Kondewa were aware of this incident in that the loot was taken from Witness and his colleagues which they never saw again. Further, they were ordered by Kondewa through Fofana not to venture in that area again.⁹⁵⁸
566. The Prosecution refers to the incident contained in the evidence of TF2-073 wherein his Mercedes Benz car was looted from his home in Sembahun by Kamajors, acting under the instructions of the Third Accused, Allieu Kondewa. The vehicle was brought to Base Zero and used by Kondewa himself until it was retrieved through the assistance of ECOMOG. The Prosecution submits that this was an incident well within the knowledge of the First and Second Accused, and it is further submitted they passively supported or condoned the act and ought properly to share responsibility as accessories.

⁹⁵² TF2-014, Transcript 10 March 2005, p. 66, where the witness stated that "[w]e got the Honda from the Jiamia Bongor Chiefdom from Africare. We commandeer it and took it from there, from the NGOs. That was done on an order."

⁹⁵³ TF2-198, Transcript 15 June 2004, pp. 37-38; TF2-157, Transcript 16 June 2004, pp. 20-22.

⁹⁵⁴ TF2-008, Transcript 16 November 2004, p. 79.

⁹⁵⁵ TF2-017, Transcript 19 November 2004, Closed Session, p. 94; TF2-014, Transcript 10 March 2005, pp. 70-71 where the First Accused told the Witness "[w]hen you go down to Bo the southern pharmacy should be looted and bring all the medicines to me."

⁹⁵⁶ TF2-190, Transcript 10 February 2005, p. 45.

⁹⁵⁷ TF2-190, Transcript 10 February 2005, p. 45.

⁹⁵⁸ TF2-223 – 28 September 2004, at page100-101

567. There is evidence from Witness Borbor Tucker that he acted on instructions given by Hinga Norman to remove three cars, located in the Special Security Division Headquarters. The three cars, with knowledge of their source, were given to Moinina Fofana, the Third Accused and Prince Brima.⁹⁵⁹

Counts 6-7: Terrorizing the Civilian Population and Collective Punishments

Kondewa's 6.1 under Count 6 and 7

568. The Prosecution submits that the evidence indicates that Kondewa planned, instigated or otherwise aided and abetted in the planning, preparation, or execution of terrorizing and collectively punishing the civilian population. Evidence from insider witnesses such as TF2-005, TF2-008, TF2-014, TF2-079, TF2-082, TF2-190, TF2-201, and TF2-222 substantiated the Prosecution submission of individual criminal responsibility with regards to the offences as charged in the Indictment.
569. Evidence of physical acts of terrorizing the civilian population and collective punishment through means of violent threat of intimidation, physical violence, mental suffering and looting was presented through the testimony of witnesses TF2-014, TF2-022, TF2-033, TF2-039, TF2-040, TF2-041, TF2-079, TF2-151, TF2-154, TF2-159, and TF2-176.
570. The Prosecution submits that direct criminal liability was manifest in the evidence of Witness TF2-223 who stated that Biko explained that they were on a special mission. The witness testified that "when we say special mission, that is the extraction of parts wanted by the initiators. So when any part is needed by the initiator, they consult the Yarmoto group... part of a human being like liver, oil, there are some other parts, kidney and useful parts like the sexual organs." Biko told the witness he had been sent by Kondewa.⁹⁶⁰
571. TF2-188 gave graphic evidence that Kondewa gave orders for her mother to be killed.⁹⁶¹ The witness met her mother who told her the Kamajors were going to kill her. Her

⁹⁵⁹ TF2-190, February 10, 05, at p. 60-62

⁹⁶⁰ TF2-223, Transcript 28 September 2004, Closed Session, pp. 110-112.

⁹⁶¹ TF2-188, Transcript 31 May 2005, p. 15.

mother told her that Kondewa had ordered that she be killed. The mother was later killed in the presence of the witness. She was tied up and hit with a stick. The witness saw her mother's throat slit from the navel, using a machete and a stick.⁹⁶² Under cross examination, the witness identified Kondewa as the person who ordered the death of her mother.⁹⁶³ No question of mistaken identity was alleged, and neither was the substantive act of the order to kill challenged under cross-examination.

572. The Prosecution presented evidence of Kondewa's effective participation in the military strategy and operations of the Kamajors. The fact that Kondewa is illiterate does not deprive him of the ability to order or instigate crimes.⁹⁶⁴ TF2-222 gave evidence that at one instance Kondewa deployed Kamajors at Sumbuya and Koribundo.⁹⁶⁵ Records of unlawful killings, physical violence and mental suffering and looting and burning were presented to the Trial Chamber, consequent to the Third Accused's deployment order.⁹⁶⁶
573. Exhibit 169, dated 19 June 2003, Defence Witness Joseph D. Murana narrated an episode in which Kondewa together with 60 of his Kamajors had attacked his house and threatened to kill him.⁹⁶⁷
574. The Prosecution submits that direct criminal liability was also manifest in the evidence of TF2-096 when she testified that one day she was collecting water from the well near Norman's house when she saw Kamajors singing. Kondewa was leading the group, in which two people were dancing. She saw Kondewa shoot a town commander. The town commander had been appointed by the rebels and that is why he was shot. The next day she saw two graves, and a Kamajor told her that those were the graves of the two people who were dancing.⁹⁶⁸
575. Witness TF2-079 testified that Fofana introduced him Kondewa. He was introduced as the chief of all the initiators, the High Priest. He was the chief of all the initiators in Sierra Leone. Evidence was led to show the importance and placement of the Kondewa

⁹⁶² TF2-188, Transcript 31 May 2005, pp. 15-18.

⁹⁶³ TF2-188, Transcript 31 May 2005, p. 31.

⁹⁶⁴ Kondewa Motion, para. 48.

⁹⁶⁵ TF2-188, Transcript 31 May 2005, p. 93.

⁹⁶⁶ TF2-012, TF2-032, TF2-157, TF2-159, TF2-162 and TF2-190.

⁹⁶⁷ Exhibit P169, Investigator's Notes – Interview of Chief Joseph Murana to the Office of the Prosecutor Dated 19 June 2003.

⁹⁶⁸ TF2-096, Transcript 8 November 2004, pp. 24-27.

in the hierarchy of the Kamajors. Kondewa was third in command and privy to all inner core war planning meetings.⁹⁶⁹ These meetings were attended by Norman, Kondewa, Fofana, and top commanders whom they suggest to attend.⁹⁷⁰ Thus, Kondewa had intimate and integral knowledge of the war machinery of the Kamajor militia.

576. Evidence of Kondewa's direct role in the attack on Bo, was presented through the testimony of Witness TF2-008. He gave evidence that the War Council recommended to Norman that the Kamajors should now concentrate on taking Bo, and ignore Freetown. The planning and implementation was left in the hands Norman, Fofana and Kondewa.⁹⁷¹ This piece of evidence taken in context with other facts in issue, such as the direct orders to loot and kill by Norman, in the presence of the Kondewa and his tacit support by endorsing the orders goes to show the substantial contribution of Kondewa to the commission of the crimes by Kamajors in the course of the Bo attack.

577. Witness TF2-201 gave evidence that as part of the planning for the attack on Tongo in which Norman, Fofana and Kondewa participated, Kondewa prepared herbs to make the Kamajors bullet proof.⁹⁷²

578. TF2-201 testified that he was present at a planning meeting together with Norman, Fofana and Kondewa, the chairman of the War Council and many others of the Council. Norman said that they had to go for an all-round attack on Bo and Kenema together, and they would have to join ECOMOG.⁹⁷³ The witness was told by Norman to go to Kenema and set up a Kamajor Base.⁹⁷⁴

579. Witness TF2-187 presented evidence that the Kamajors prepared for Norman's visit by having Kondewa's boys capture pregnant women and take them to the court barri. The women were tied up standing. When they heard the sound of the plane, the Kamajors slit the stomach of the women and then the cut off the head of the fetus. The Kamajors put each of the head on a separate stick. The three women died. The three sticks with the heads were tied together; when that was done it was like a flag and was placed at the

⁹⁶⁹ TF2-005, TF2-011, TF2-008, TF2-014, TF2-190, TF2-201, TF2-222.

⁹⁷⁰ TF2-079, Transcript 26 May 2005, Closed Session, pp. 38-39.

⁹⁷¹ TF2-008, Transcript 16 November 2004, pp. 93-94.

⁹⁷² TF2-201, Transcript 4 November 2004, Closed Session, p. 107.

⁹⁷³ TF2-210, Transcript 4 November 2004, Closed Session, p.72.

⁹⁷⁴ TF2-201, Transcript 5 November 2004, Closed Session, p.56.

junction. The junction was the junction to Mattru. When the women were killed at the barri, there were civilians present as well as Kamajors.⁹⁷⁵

580. Witness TF2-147 testified that he had to pay Kamajors money to protect people in his compound. If he failed to pay, they threatened that they would be killed. Money was given by the witness to protect one Koroma and the Third Accused was present when the money (600,000 Leones) was handed over. Later Kondewa took Koroma away. The witness also paid money to protect others, including Chief Bureh Kalo.⁹⁷⁶

581. Witness TF2-071 gave evidence that Kondewa was in Bonthe before the final payment was made to release his father. Other payments had been made before then. The money was only paid, "because Kondewa had come and he had the only authority to release my father."⁹⁷⁷

582. Witness TF2-056 gave evidence that he saw a Limba man being beaten in front of Hindowa, a Kamajor commander. Hindowa said if he was paid 100,000 Leones they would release the man. The witness paid the 100,000 Leones. The witness paid another Kamajor commander, Moses Sandy, the sum of 110,000 Leones and 10 bushels of rice for the release of the two men. The witness also paid for the release of another Limba man, a neighbor, who was arrested as junta. The man was beaten and forced to roll on the ground. Later, the witness paid 300,000 Leones to the Kamajor leader, Abu Tawa, for the man's release. The witness also paid for the release of a woman who had been the cook for Mosquito.⁹⁷⁸

583. Witness TF2-166 testified that the Kamajors took 500,000 Leones offered by the witness' father and refused to let him free and they threatened to kill him.⁹⁷⁹

584. Finally, witness TF2-096 testified that by the time she arrived at Nyandehun her friend was in a cage. Kondewa and the Kamajors were present. People gathered to try and help

⁹⁷⁵ TF2-187, Transcript 1 June 2005, pp. 17-21, 29-35.

⁹⁷⁶ TF2-147, Transcript 10 November 2004, pp. 54, 56, 60-63.

⁹⁷⁷ TF2-071, Transcript 12 November 2004, Closed Session, pp. 46-48.

⁹⁷⁸ TF2-056, Transcript 7 December 2004, pp. 67-82.

⁹⁷⁹ TF2-166, Transcript 8 March 2005, p. 69-70.

the girl. The witness's husband said that the Kondewa wanted 40,000 Leones to release the girl. The money was given by the husband to the Third Accused.⁹⁸⁰

585. The Prosecution led further evidence on collective punishment through the evidence of Witness TF2-079 who testified that, on the return of Kamajors from Gendema, Norman sent a message that "all those chiefs who are not in favour of the Kamajors should be killed." Norman also sent a message "that civilian collaborators, those who are sympathising with the AFRC/RUF rebel should also be killed. And the paramount chiefs who are not in favour of the Kamajors should also be killed."⁹⁸¹ The witness said also, that paramount chief at Dama Chiefdom, Chief Dassama was killed by Kamajors following Norman's orders.⁹⁸²

586. The Prosecution submits that evidence beyond reasonable doubt has been presented that Kondewa planned, instigated, ordered, aided and abetted the crimes charged in the Indictment and that Kondewa had effective control over Kamajor subordinates.

Count 8: Use of Child Soldiers

Kondewa's 6.1 under Count 8

587. Child soldiers were sourced by the CDF by initiating or enlisting children under the age of 15 years into armed forces or groups and in addition, or in the alternative, using them to participate actively in hostilities. Nonetheless, the Prosecution witnesses TF2-004, TF2-021, TF2-140 gave unchallenged viva voce evidence of coercive recruitment and direct participation in active hostilities. Kondewa's modes of liability under this count include commission, aiding and abetting and instigation.

588. With regard to the use of child soldiers, witness TF2-079 testified that he saw children carrying "AK47's, grenades and some were having machetes." The witness saw them patrolling with the commanders of Base Zero and some were used as bodyguards. For example the Kondewa had a child soldier as a bodyguard at Base Zero.⁹⁸³

⁹⁸⁰ TF2-096, Transcript 8 November 2004, pp. 34-36.

⁹⁸¹ TF2-079, Transcript 26 May 2005, p. 20.

⁹⁸² TF2-079, Transcript 26 May 2005, p. 23.

⁹⁸³ TF2-079, Transcript 27 May 2005, pp. 12-13.

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589. Witness TF2-014 gave unchallenged and uncontroversial evidence that at Base Zero, there were Kamajors as young as six years of age. Witness knew a Kamajor called Junior Spain, who was between twelve to fifteen years old. Kamajors would go to war at an early age, so long as they had been initiated into the Kamajor society.⁹⁸⁴
590. Evidence of child enlistment and use of child soldiers was presented by the Prosecution through the testimony of witness TF2-021. The witness was in Ngeihun when the Kamajors attacked and he was captured by a Kamajor named German. There were seven boys, the oldest being 15, and 3 women. Witness was then initiated by Kondewa (Papay Konde).⁹⁸⁵ The Kamajors looted and then burnt the houses. Boys carried the property to Kenema.⁹⁸⁶ At the Moa River, the Kamajors shot the three women. They were shot because they were the wives of rebels.⁹⁸⁷ The witness was initiated, and German gave him a two pistol-grip gun, and he was shown how to use it. Then the witness would go on mission to attack surrounding villages and catch people – women.⁹⁸⁸
591. The evidence further revealed that witness' first mission was to Masiaka, where they started shooting at the rebels. The boy next to the witness was shot and he became vexed. He saw a woman running towards him and he shot her in the stomach, and she fell down. They then went into the town and looted it, taking things of value.⁹⁸⁹
592. Witness TF2-EW2 gave further evidence that according to a table, which formed part of her report tendered as exhibit 100⁹⁹⁰, 5.2% of the CDF were child soldiers. That is approximately 8,500 CDF soldiers were demobilized in that period.⁹⁹¹ The witness personally verified 50 CDF child soldiers.⁹⁹² The witness said that it was her belief initiation was a stepping stone to recruitment as a soldier.⁹⁹³

⁹⁸⁴ TF2-014, Transcript 11 March 2005, p. 15-16.

⁹⁸⁵ TF2-021, Transcript 2 November 2004, p. 39.

⁹⁸⁶ TF2-021, Transcript 2 November 2004, p. 33.

⁹⁸⁷ TF2-021, Transcript 2 November 2004, p. 35.

⁹⁸⁸ TF2-021, Transcript 2 November 2004, pp. 43-44.

⁹⁸⁹ TF2-021, Transcript 2 November 2004, p. 45-46.

⁹⁹⁰ Exhibit 100: Report on the Situation in Sierra Leone in Relation to Children with the Fighting Forces, 4 May 2006.

⁹⁹¹ TF2-EW2, Transcript, 16 June 2005, Closed Session, p. 68.

⁹⁹² TF2-EW2, Transcript, 16 June 2005, Closed Session, p. 82.

⁹⁹³ TF2-EW2, Transcript, 16 June 2005, Closed Session, p. 91.

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Kondewa's 6.3 under Counts 1-8

593. Turning to Kondewa's 6.3 command responsibility under this count there is overwhelming evidence to show that Kondewa exercised effective command and control over the Kamajors, and that he was one of the three pillars of leadership of the CDF. Kondewa was the chief architect and grand master of the morale and psychological components of the CDF military strategy and operations. His powers were shrouded in mysticism and a token of holiness.⁹⁹⁴
594. In addition, it is submitted that Kondewa, as High Priest of the Kamajors bears responsibility for murder at Base Zero for his failure to prevent such murders or punish the perpetrators. Again, given Kondewa's extended stay in Talia, 1996 through 1998 and particularly his personal participation in or presence during acts of murder, the only reasonable inference is that Kondewa knew that civilians and collaborators were being killed by Kamajors. The trial record contains no evidence of disciplinary measures or other punishment of the Kamajors who participated in murder. Vanjawai after being investigated and found guilty of murder by the War Council,⁹⁹⁵ continued to serve as a Kamajor and was even promoted and remained a commander until the end of the war. The repeated failure to prevent or punish unlawful killings only served to encourage and promote more killings by Kamajors.
595. The Prosecution presented evidence that the role of the Third Accused was not merely spiritual or one based on sublime mysticism as the Defence would want the Trial Chamber to believe, but rather, that it was pivotal to the operational and tactical component of the Kamajor militia. This evidence is supported by the testimony of witness TF2-008 when he testified that the Third Accused had to bless the Kamajors before they went to the war front, "so they have to go to him."⁹⁹⁶ The witness said also that the Kamajors at Base Zero had to go and see him, if he was around before they went to the war front.⁹⁹⁷
596. The evidence of witness TF2-008 is quite instructive in identifying the unique role of the Third Accused in the Kamajor military operations. The witness gave evidence that the

⁹⁹⁴ TF2-005, TF2-008, TF2-014, TF2-068, TF2-222.

⁹⁹⁵ TF2-008, Transcript 17 November 2004, p. 36-37.

⁹⁹⁶ TF2-008, Transcript 23 November 2004, p. 58.

⁹⁹⁷ TF2-008, Transcript 23 November 2004, p. 59.

Third Accused was the chief initiator and attained the status of High Priest because of the mystical powers he possessed, and as such, no Kamajor would ever go to war without his blessings.⁹⁹⁸ The Third Accused recommended whether a particular fighter should go to war or not. The final authority to send the Kamajors to war lay with Hinga Norman, Moinina Fofana and Kondewa.⁹⁹⁹ Witness TF2-008 further gave evidence that the Kamajor Commanders only take instructions from Hinga Norman, Moinina Fofana and the Third Accused.¹⁰⁰⁰

597. Effective command over subordinates became evident in the testimony of witness TF2-071 who stated that the pleadings of the Reverend Father Garrick (TF2-147) and monies paid by way of ransom were unable to secure the release of his father from the hands of the Kamajors, who had sworn that only their boss would authorize his release. He stated that it was only the arrival of the Third Accused and a final payment of a sum of money that secured his father's release.¹⁰⁰¹

598. In addition, witness TF2-223 gave examples of effective control and power being exercised by Kondewa and Fofana. Those two gave orders for the burning of people. The orders, to burn those people in front of the building, were given to a unit called the Task Force Unit.¹⁰⁰²

599. The Prosecution submits that there is evidence beyond reasonable doubt to demonstrate that Kondewa had actual knowledge of crimes being committed by Kamajors and by virtue of his leadership position as High Priest had reason to know that crimes were committed by his subordinates.

600. Witness TF2-014 gave evidence that in the presence of Moinina Fofana and Kondewa; Hinga Norman permitted the Kamajors to kill the Junta Forces and their sympathizers, and burn and loot their properties.¹⁰⁰³ He gave evidence that that Hinga Norman always made decisions in consultation with Moinina Fofana and Kondewa.¹⁰⁰⁴ Witness TF2-079 testified that Kondewa had requested for and provided logistics for commanders of fighting groups of his own choice. Those groups included the Vanjawai's group and the

⁹⁹⁸ TF2-008, Transcript 16 November 2004, pp. 49.

⁹⁹⁹ TF2-008, Transcript 16 November 2004, pp. 58-59.

¹⁰⁰⁰ TF2-008, Transcript 17 November 2004, pp. 48.

¹⁰⁰¹ TF2-071, Transcript 12 November 2004, Closed Session, pp. 46-48.

¹⁰⁰² TF2-223, Transcript 28 September 2004, Closed Session, pp. 101-102.

¹⁰⁰³ TF2-014, Transcript 10 March 2005, pp. 37-39.

¹⁰⁰⁴ TF2-014, Transcript 14 March 2005, p. 7.

Death Squad. Kondewa provided logistics to Vanjawai's group and the Death Squad.¹⁰⁰⁵

There were reports of crimes committed by the Death Squad reaching the War Council at Base Zero, and Kondewa was present at those sittings. Therefore, Kondewa cannot deny knowledge of the crimes.

601. Witness TF2-017 gave evidence that sometimes the War Council would say something the Kamajors did was bad, like looting, but Kondewa said, "whosoever touched the Kamajors would have a problem with him."¹⁰⁰⁶ In other words, criticisms of the Kamajors were unwelcome by the Third Accused.
602. Witness TF2-147 gave evidence that he complained to CO Kamara about the behavior of the Kamajors, and Kamara replied that he could not control all Kamajors since some of them were related to Kondewa. The witness stated that he was not aware that Kamajors were punished by Kondewa after all the reports that were made to him.¹⁰⁰⁷
603. The Prosecution presented evidence that a Kamajor called Vanjawai, who was attached to Kondewa was never punished for committing murder.¹⁰⁰⁸
604. Witness TF2-005 gave evidence that he and others were afraid of the Death Squad. The Death Squad was under the control Norman, Fofana and Kondewa and had nothing to do with anyone else. The Death Squad was investigated by the War Council following complaints made by four Chiefs from Sierra Rutile regarding excesses. At a meeting in Base Zero of the War Council, Kondewa warned the members to be careful with the kind of investigation they were doing. The warning by the Third Accused to members of the War Council frightened its membership.¹⁰⁰⁹
605. The Prosecution submits that witnesses TF2-005, TF2-008, TF2-017, TF2-014, TF2-068, TF2-073, TF2-079, TF2-188, TF2-190, TF2-201, TF2-222, and TF2-223 in particular, all presented cogent incriminating evidence against the Accused to support the allegation of individual criminal responsibility by planning, instigating, ordering, committing or aiding and abetting.

¹⁰⁰⁵ TF2-079, Transcript 26 May 2005, pp. 42.

¹⁰⁰⁶ TF2-017, 22 November 2004, Closed Session, p. 46.

¹⁰⁰⁷ TF2-147, Transcript 10 November 2004, pp. 49, 66.

¹⁰⁰⁸ TF2-014, Transcript 11 March 2005, pp. 14, 20.

¹⁰⁰⁹ TF2-005, Transcript 15 February 2005, Closed Session, pp. 95-100.

606. When all of the evidence is viewed as a whole, the only reasonable conclusion is that Kondewa's failure to act in stopping the killings and or to punish the perpetrators amounted to a failure to prevent or punish for the purposes of Article 6(3) of the Statute.

VI. Conclusion

607. The Prosecution submits that on the basis of all the evidence presented during its case, the Trial Chamber will be satisfied beyond reasonable doubt of the guilt of Kondewa under all counts of the Indictment. On the basis of the evidence, it is safe to conclude that Kondewa was a party to an orchestrated campaign extending systematically to diverse geographical crime bases. It is also safe to conclude that each of the jointly charged defendants participated in the campaign to the full extent alleged in the Indictment.

PART X

EVIDENTIARY CONSIDERATIONS OF GENERAL APPLICATION

Key Witnesses

608. Clearly, no single witness was in a position to describe all of the events described in the Indictment. Witnesses described events from their own vantage points, according to the level of their knowledge and understanding of the events. However, four witnesses in particular may assist the Court in understanding the workings of the CDF, from inside and outside the organization. The victims of the crimes gave compelling evidence of what befell them, but could not necessarily describe the organization in which the perpetrators served.

Nallo

609. The first witness for consideration is Albert Nallo who was a 51 year old male agricultural instructor and parish development field officer. The credibility of Nallo, for obvious reasons, was subject to close scrutiny by the defence. Nallo operated within the core of the CDF, from Base Zero, and could describe with clarity how the organization operated under the command of the three accused persons.

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610. It is submitted that the testimony of Nallo was not adversely impacted upon by cross-examination by defence counsel. He remained a credible and reliable witness; indeed, his evidence across the broad range of his testimony is supported by many other witnesses as outlined below.
611. For example, evidence was led concerning the killings of two CDF combatants, Alpha Dauda Kanu and Mustapha Fallon. Nallo spoke about the death of those two men, as did other prosecution witnesses. Nallo said that Mustapha Fallon was killed at Base Zero; Dr Allieu Kondewa and Chief Hinga Norman and Moinina Fofana were there when he was killed. "They laid him and they cut off his throat." The killing took place "In the Poro Bush when we were at Talia Yawbeko, known as Base Zero." "Allieu Kondewa said that we needed human sacrifice so as to protect the fighters." Fallon was a Kamajor.¹⁰¹⁰
612. Nallo said Alpha Dauda Kanu, a Kapra, was killed in an oil palm plantation when going towards Mokusi. Kanu was killed by Dr Allieu Kondewa, Hinga Norman, and Moinina Fofana. "He was hacked to death, and we took off his skin."¹⁰¹¹ The Prosecution submits that the defence witnesses who testified on that issue were not of such a nature that they impugned the overall credibility of Nallo.
613. The Prosecution maintains that those two men died in the manner described by Nallo and others. The Prosecution includes the *killings* of Alpha Dauda Kanu and Mustapha Fallon under Count 1 (murder as a crime against humanity) and Count 2 (violence to life, health and physical or mental well-being of persons, in particular murder. The murder of those two men also demonstrates the power and control each of the accused men had over the CDF; they could kill their own people without fear of reprisal or sanctions.
614. Returning to Nallo's narrative he said that before the war, there were hunters all over Sierra Leone, controlled by the paramount chiefs. The Kamajor society was started in 1993 or 1994 by Dr Alpha Lavalie in Kenema.¹⁰¹²
615. After the coup, Eddie Massalay put out an announcement through the BBC for Kamajors all over Sierra Leone, the Kapras, Gbethis, Tamaboros, Donsos and Donsoras to take up

¹⁰¹⁰ TF2-014, Transcript 10 March 2005, p. 56.

¹⁰¹¹ TF2-014, Transcript 10 March 2005, p. 59.

¹⁰¹² TF2-014, Transcript 10 March 2005, p. 8.

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arms against the AFRC and flush them out of the country. When Norman joined the Kamajors in Gendema, Eddie Massalay relinquished his position as chairman and had Hinga Norman as the National Coordinator.¹⁰¹³ Chief Norman appointed Moinina Fofana as Director of War.¹⁰¹⁴

616. Kondewa was a Kamajor initiator. Kondewa created different groups and initiations within the Kamajor movement. Kondewa had one initiate's body sacrificially immolated at Sogbini. He used the initiates' ashes in a ritual to mark and "protect" newer initiates.¹⁰¹⁵
617. Nallo went to Base Zero and was appointed as the National Deputy Director of Operations and Regional Director of Operations Southern Region in charge of Bonthe, Moyamba and Pujehun -- Bo, Bonthe, Moyamba and Pujehun, by Hinga Norman.¹⁰¹⁶
618. Nallo's role as National Deputy Director of Operations was to take instructions from Hinga Norman, both general and specific and transmit the orders to the war front people. He collected reports from the front and submitted them to the National Coordinator, through the Director of War, Moinina Fofana. Nallo collected arms and ammunition and took them to the war front to the fighters. He frequently visited front lines to ascertain reports and the position of the troops and ensure they had logistics. Nallo sat with Moinina Fofana to plan strategies for the southern region.¹⁰¹⁷
619. Nallo stayed at Base Zero for six months. He used a Honda motorcycle to move around; he made reports both in writing and verbally. General orders came from Norman. "It's from him that all directives emanated." Those orders were distributed to the Kamajors -- Norman "would go to a training ground, that was the general order, and he would give the orders to the Kamajors. He would give some to me and I would take my bike and I would pass right round in order to tell the commanders, so that it would reach the people."¹⁰¹⁸

¹⁰¹³ TF2-014, Transcript 10 March 2005, p. 14.

¹⁰¹⁴ TF2-014, Transcript 10 March 2005, p. 17.

¹⁰¹⁵ TF2-014, Transcript 10 March 2005, p. 24.

¹⁰¹⁶ TF2-014, Transcript 10 March 2005, p. 32.

¹⁰¹⁷ TF2-014, Transcript 10 March 2005, p. 3.

¹⁰¹⁸ TF2-014, Transcript 10 March 2005, p. 35.

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620. General orders described the Kamajors' enemies. Norman said, "All AFRC fighters were our enemies, and collaborators and sympathisers who were also enemies. " Norman also said that enemies included:

[s]ympathisers, collaborators, and those who refused deliberately to leave the AFRC and RUF zones, those were our enemies and that we should kill them, no problem. He said we should . . . not be sorry for them at all because Kamajors don't have food, not have house to keep these people. So the best way of getting rid of enemy is to exterminate him. He further sanctioned looting of their property and burning down of their houses.¹⁰¹⁹

Here Norman clearly directs Kamajors to believe that their "enemies" include civilians occupying AFRC/RUF stronghold areas. Norman also gives Kamajors a directive to exterminate people rather than keep any prisoners. The justification for this brutal policy: the CDF simply has no place to house prisoners.

150. Norman further approved the looting of property belonging to "sympathisers, the collaborators and those who are behind the AFRC line those [who] were not in our own operational area." When Norman gave those instructions the War Council was with Kondewa and Fofana. TF2-014 recalled five captured RUF soldiers being brought to Base Zero: "[w]hen they brought them to Base Zero, they handed them over to the Death Squad and they tortured them to death."¹⁰²⁰

621. In a conflict involving thousands of combatants on each side it reasonable to suppose that prisoners were taken by the CDF. It is clear from the evidence that there were no facilities to keep prisoners; as Nallo says, and what he says is consistent with other evidence, prisoners were killed and that order came from Norman supported by Kondewa and Fofana. At the same time persons found to be sympathisers, the collaborators and those behind the AFRC line that were not in the operational area of the CDF, were not the subject of incarceration. The CDF upon capturing a person who fell under the very broad definition described above was killed; under the CDF command structure there was no other alternative.

¹⁰¹⁹ TF2-014, Transcript 10 March 2005, p. 37 (lines 7-14).

¹⁰²⁰ TF2-014, Transcript 10 March 2005, p. 34.

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622. The Death Squad was “a special group that was with Norman, who are only answerable to Hinga Norman, who was charged with responsibility of torturing people and killing them. They were not answerable to anybody except Hinga Norman.”¹⁰²¹
623. Nallo nominated the members of the War Council, which included PC Joe William Quee of Kowa Chiefdom, Moyamba District, and the chairman of the council. Nallo said he did not take orders from the War Council, “They did not have that power at all. Everything was directed to Hinga Norman. He had the last say. They used to recommend. They recommend to Chief Hinga Norman.”¹⁰²²
624. Norman directed Nallo to kill people around Base Zero; Fofana was also present at the time of the direction in Norman’s house. Norman said, “Director of Operations has received information that someone saw rebels, sympathisers and collaborators, they’ve surrounded our base. That shouldn’t happen, it is dangerous.”¹⁰²³ Norman gave a command that Nallo should go on an operation to get rid of all the collaborators, rebels and sympathisers around the base. The witness went to Dodo village in Jong Chiefdom, Bonthe District with two persons Moinina Fofana sent with him who knew the terrain. The two men, Momoh Pemba and Billo Conteh, were to give TF2-014 an idea of the area’s terrain.¹⁰²⁴
625. The defence called witnesses to testify that Nallo did not kill the person that he claimed to have killed. The persons called to testify were still loyal to the Kamajors movement. Nallo maintained that he killed people at the request of Norman; the Prosecution submits that Nallo did kill civilians and he displayed frankness to the Court in admitting to the atrocities he committed during the war. As an insider one can rely on his evidence, especially as his testimony in respect of the power and authority of the three accused men is supported by other witnesses, by Norman’s testimony and by certain exhibits.
626. At Dodo Nallo told the villagers that they were rebels and opened fire on them. “We killed over 15 of them. We burnt down their houses.”¹⁰²⁵ Dodo is about 7 to 8 miles from where Base Zero was located.¹⁰²⁶ Nallo spoke about going to their villages; at

¹⁰²¹ TF2-014, Transcript 10 March 2005, p. 38.

¹⁰²² TF2-014, Transcript 10 March 2005, p. 42.

¹⁰²³ TF2-014, Transcript 10 March 2005, p. 42.

¹⁰²⁴ TF2-014, Transcript 10 March 2005, p. 45.

¹⁰²⁵ TF2-014, Transcript 10 March 2005, p. 45

¹⁰²⁶ TF2-014, Transcript 10 March 2005, p. 46.

- Sorgia village he tortured Joseph Lansana and killed that person's mother. Nallo also spoke about killing a Fullah man, at a road block going to the trade fair at Baoma.¹⁰²⁷
627. Moinina Fofana was also present in Norman's room when the orders were given. Hinga Norman said, "[w]hen you go down to Bo the southern pharmacy should be looted and bring all the medicines to me." Norman instructed Kamajors to kill PC Veronica Bagni, Joe Kpundoh Boima III, Paramount chief of Bo Kakua and other persons.¹⁰²⁸
628. Norman said the Police officers were to be killed because they continued to work for the juntas, so they are collaborators.¹⁰²⁹ Nallo carried out the orders, but not fully because he did not see those people. Nallo burned their houses and looted their properties.
629. With regard to Koribundo, Norman said, "Well, we have attacked Koribundo many times; we are not able to capture it. The cause of that acrimony was that the civilians in Koribundo had given their children to the juntas, in marriage. So they were spies and collaborators. So when I go down to Koribundo, let me see that nobody should be left, not even a farm. All houses should be burned." Petrol was given for that operation.¹⁰³⁰
630. Nallo's role was to be the Director of Operations for the attack on Koribundo. The Kamajors burnt the place. Nallo then was ordered to go to Bo. Nallo took over for his deputy. Borbor Tucker brought a surrendered soldier to him called John Hota. As Nallo said, "Norman had given instructions 'that we did not have food and house to keep surrendered soldiers, so we should kill them when we capture them.'"¹⁰³¹ Tucker asked him not to kill Hota, so Nallo sent a message to Norman. Norman, in response, sent back four Kamajors from Base Zero, Death Squad, who killed the prisoner.
631. A week after the capture of Bo, Norman came there and spoke to Nallo. Norman said, "Have you forgotten the other order that I gave, which was a standing order?" He said, "I was the one that sent my boys, the Death Squad, so as to come and finish away with John Hota for whom you sent a particular message and the others and those that were in your custody."¹⁰³² Fix these quotations for format and accuracy. Refer to transcript.

¹⁰²⁷ TF2-014, Transcript 10 March 2005, pp. 46-54.

¹⁰²⁸ TF2-014, Transcript 10 March 2005, pp. 71-72.

¹⁰²⁹ TF2-014, Transcript 10 March 2005, p. 76.

¹⁰³⁰ TF2-014, Transcript 10 March 2005, p. 78.

¹⁰³¹ TF2-014, Transcript 10 March 2005, p. 85.

¹⁰³² TF2-014, Transcript 10 March 2005, p. 88.

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632. There was a meeting in Bo with Norman along with Kamajors and civilians. Norman said, "You complain that Kamajors have been killing, Kamajors had burnt houses." He said, "I like Kamajor. I love Kamajors more than my own children. You should love Kamajors also. If any Kamajor did anything to you should not grumble about it."¹⁰³³
633. Nallo said that at Base Zero, at the time of the Bo attack, there were approximately 15,000 Kamajors. Some went to Koribundo and some went to Bo.¹⁰³⁴ There were Kamajors at Base Zero from 6 years to 8 years old; there were Kamajors who were 12 years.¹⁰³⁵
634. Moinina Fofana was the Director of War. There was a Deputy Director of War Musa Orinko. Then the next level was National Director of Operations Joseph Koroma. There was National Deputy Director of Operations Albert Nallo who was also Regional Director of Operations, Southern Region. Musa Junisa was the Director of Operations Eastern Region. Dr Mohamed Mansaray was the Director of Operations Northern Region. The Director of Operations Western Region was Pa Lungba. There were battalion commanders and company commanders. The CDF had another structure when they left the bush. There were also squad commanders and platoon commanders.¹⁰³⁶
635. Nallo first told investigators from the Special Court that he did not want speak about Kamajor activity during the war because he was afraid.¹⁰³⁷ Nallo was initially afraid of apprehension by the Office of the Prosecutor. He was also afraid of the Kamajor code, the oath taken before National Coordinator Sam Hinga Norman, High Priest Allieu Kondewa and Director of War Moinina Fofana. The code insists that anyone explaining the Kamajor society to the uninitiated will be killed and turned into ashes.¹⁰³⁸
636. Nallo said there were three persons between him and Norman, namely Joseph Koroma; Mohamed Musa Orinco; Moinina Fofana, with Koroma being inactive.¹⁰³⁹ Nallo said, "I was an ordinary civilian that took up arms to fight for my land, to liberate it from the rebels. The National Coordinator from whom I took orders from, Captain Samuel Hinga Norman, he was an army officer, an old army officer. Rather, ex-army officer who

¹⁰³³ TF2-014, Transcript 10 March 2005, p. 89.

¹⁰³⁴ TF2-014, Transcript 11 March 2005, p. 2.

¹⁰³⁵ TF2-014, Transcript 10 March 2005, p. 15.

¹⁰³⁶ TF2-014, Transcript 10 March 2005, pp. 24-29.

¹⁰³⁷ TF2-014, Transcript 10 March 2005, p. 29. Check if this is the right part of the transcript.

¹⁰³⁸ TF2-014, Transcript 10 March 2005, pp. 34-35.

¹⁰³⁹ p38, 10 March 2005

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attended Sanders Military Academy. So we gave him that respect that he should have guided us for lawful and unlawful order. So whatever order he gave to us, we thought it was right, because we are lay people.”¹⁰⁴⁰

637. As Nallo said, “The head of the War Council was Chief Hinga Norman, the national coordinator, and the chairman was answerable to him. So, anything that was decided by the War Council -- Norman had no deputy; he had been using Moinina Fofana and Dr Allieu Kondewa. They would decide and give the final report, what the War Council recommended.” Norman made decisions in consultation with Fofana and Kondewa. At one time the lives of the War Council members were at risk.¹⁰⁴¹ What does this mean?
638. The War Council did have one meeting in Kenema, after Base Zero but its recommendations were not followed.¹⁰⁴² Nallo said that at first they were under chiefdoms. When Hinga Norman took over, all the instructions coming from Base Zero were the ones which he followed. Nallo issued orders and controlled matters through his commanders.
639. Nallo said that Fofana would suggest strategies, but as he was illiterate Nallo would write them down and present the strategies to the War Council.¹⁰⁴³ Nallo said when they came from the bush Norman was appointed the National PRO. Allieu Kondewa was dropped. The War Council members had become inactive because Norman had threatened and intimidated them.¹⁰⁴⁴
640. When they were in the bush the three accused were in control; they were making all major decisions.¹⁰⁴⁵ Nallo agreed that Fofana was a member of the War Directorate Office; he was head whilst Nallo was a member.¹⁰⁴⁶ The Office was formed in 1999. Nallo agreed that Kondewa was not a fighter, he did not command troops; he had bodyguards.¹⁰⁴⁷

¹⁰⁴⁰ TF2-014, Transcript 10 March 2005, p. 93.

¹⁰⁴¹ TF2-014, Transcript 14 March 2005, p. 7.

¹⁰⁴² TF2-014, Transcript 14 March 2005, p. 15.

¹⁰⁴³ TF2-014, Transcript 14 March 2005, p. 56.

¹⁰⁴⁴ TF2-014, Transcript 15 March 2005, p. 33.

¹⁰⁴⁵ TF2-014, Transcript 15 March 2005, p. 35.

¹⁰⁴⁶ TF2-014, Transcript 15 March 2005, p. 43.

¹⁰⁴⁷ TF2-014, Transcript 15 March 2005, p. 46-47.

641. Nallo agreed that in Bo, "The police, the Friday that they entered, the Sunday after that, that's when the fighting was on. Apart from that, we captured them and whenever we captured any one of them, we'd kill them." "Anyone whom we captured, we'd kill."¹⁰⁴⁸
642. Nallo said, "The CDF had good intentions for this country. We all went to the CDF to fight for the restoration of the government of the day, to see to it that the government of the day returns. But during the cause, My Lord, we deviated from that through the directive of the National Coordinator of CDF, Chief Sam Hinga Norman, captain."¹⁰⁴⁹

TF2-068

643. Turning now to TF2-068, who was a distinguished and respected Paramount chief; he testified in a closed session.
644. Defence suggests that this witness could and did direct CDF military operations. TF2-068 was for a short time chairman of the War Council. In that position he tried without success to provide advice to the First Accused.
645. The witness described the rebels attacking his village, killing people and burning his house. He then went to Talia. At Talia, he met Norman. The witness, although elderly, became a Kamajor. To become bullet-proof; he paid Allieu Kondewa 10,000 Leones.
646. The witness became chairman of the Chief's Council, which some people called the War Council. The Council had no role in the appointment of persons in the Kamajors. Chief Hinga Norman made the appointments.¹⁰⁵⁰ The Council advised the coordinator about the misbehaviour of the Kamajors in Talia, but without success.¹⁰⁵¹ The Council also raised the issue of looting by the Kamajors as well as the raping and killing of civilians to Chief Norman. The Chairman of the War Council advised Norman's men, the Director of War, Fofana, and the Chief Priest, Kondewa, that they should control their men.¹⁰⁵²
647. The Chairman spoke to both Fofana and Kondewa (because of their position of authority – the Chairman of the War Council had to seek their assistance) about the breakdown of the law and order in Talia; the Council did provide advice on how to pursue war. The

¹⁰⁴⁸ TF2-014, Transcript 15 March 2005, p. 55-56.

¹⁰⁴⁹ TF2-014, Transcript 15 March 2005, p. 58.

¹⁰⁵⁰ TF2-068, Transcript 17 November 2004, p. 84.

¹⁰⁵¹ TF2-068, Transcript 17 November 2004, p. 87.

¹⁰⁵² TF2-068, Transcript 17 November 2004, p. 88.

C O N F I D E N T I A L

- witness was aware of the Death Squad, but they were not under his control; they were under the control of the Coordinator, the Chief Priest and the Director of War.¹⁰⁵⁰
648. On one occasion Alhaji Daramy Rogers complained to our group that their lives were threatened by that the Death Squad. So the Council made a complaint to Chief Hinga Norman who took no action.¹⁰⁵¹
649. The witness saw looted property, such as a truckload of cocoa and coffee, being given to the Director of War and the Chief Priest Kondewa and the truck was detained.¹⁰⁵²
650. The witness attended a mass meeting in Talia, before the attack on Bo. The Coordinator, Hinga Norman addressed the meeting and said the fighters should go and clear Bo from the enemies, Bo and Koribundo.¹⁰⁵³
651. The witness said that Dr Jibao was the discipline officer at Talia. On one occasion he spoke to Dr Jibao about a Kamajor shooting a young woman, a civilian. The matter was referred to Chief Hinga Norman. No investigation was carried out.¹⁰⁵⁴ On another occasion the witness saw a man called Abu Biotay wearing the tongue of the chieftom speaker of the Ribbi Chieftom around his neck.¹⁰⁵⁵ Nallo spoke of the same incident.
652. The witness spoke about the local Kamajors -- the hunters who used to hunt around their farms; they were not a fighting force. And there were the Kamajors, which were a fighting force.¹⁰⁵⁶ Men from his chieftom were initiated in Talia, not in his chieftom; they went to Talia independently.¹⁰⁵⁷ It is not in dispute that initiation was not equated to conscription; older people, such as this witness, became initiated as he wanted to be bullet-proof. But you were not a Kamajor unless you were initiated.
653. The witness said that they did not have regular meetings of the council. In the one month that he was in Talia he attended three meetings.¹⁰⁵⁸ The witness said that it was the work of the Director of War to deploy Kamajors.¹⁰⁵⁹

Colonel Iron

¹⁰⁵⁰ TF2-068, 17 Transcript November 2006, p. 90.

¹⁰⁵¹ TF2-068, 17 Transcript November 2006, p. 91.

¹⁰⁵² TF2-068, 17 Transcript November 2004, p. 92.

¹⁰⁵³ TF2-068, 17 Transcript November 2006, p. 93.

¹⁰⁵⁴ TF2-068, 17 Transcript November 2006, p. 95.

¹⁰⁵⁵ TF2-068, 17 Transcript November 2006, p. 97.

¹⁰⁵⁶ TF2-068, 17 Transcript November 2006, p. 100.

¹⁰⁵⁷ TF2-068, 17 Transcript November 2006, p. 109.

¹⁰⁵⁸ TF2-068, 18 Transcript November 2004, p. 18.

¹⁰⁵⁹ TF2-068, 18 Transcript November 2004, p. 18.

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654. The next witness provides an expert assessment of the military structure of the Kamajors during the relevant period. Colonel Iron of the British Army tendered a report which sought to describe the extent to which the CDF was a military organization and the extent to which command was effective in the circumstances of the war.¹⁰⁶³
655. The expert, who had both extensive practical military experience and academic qualifications, was asked whether the CDF had a military hierarchy and structure. The second question was whether the CDF exhibited the characteristics of a military organisation. The third question was whether the organisation was coherent one. Lastly, it was asked whether the command was effective.
656. Colonel Iron's testimony is consistent with the witnesses that testified throughout the trial. Colonel Iron provided an expert overlay to assist the Court, but he also mirrored the testimony of other witnesses, while offering the Court the benefit of this rational objectivity. He described himself as "an impartial analyst".¹⁰⁶⁴
657. The expert said that the CDF organisation evolved over time. Prior to the coup in 1997 the CDF was organised on what might be described as territorial grounds. They were distributed territorially, organised on a chiefdom basis and they operated in their own local areas.¹⁰⁶⁵
658. After the coup, the organisation changed. The CDF was expelled from many of its areas, and there was the beginning of a new structure. Headquarters was established in Talia, in Bonthe District, and for the first time, there was the creation of a large centralised body of CDF fighters in Talia. That force became an offensive force, or a counterattack force.¹⁰⁶⁶
659. The CDF became a hierarchal structure, commanded by Hinga Norman. As to control, the expert said that it was mixed, at the strategic and operational level, command was highly effective. At the tactical level, command tended to be less effective because of the inexperience and lack of training of many of the junior commanders.¹⁰⁶⁷
660. As Iron described, "After the coup, the Kamajors were driven from many of their traditional areas; the chiefdom structure of the CDF broke down; they were under attack

¹⁰⁶³ Exhibit P97:

¹⁰⁶⁴ Colonel Richard Iron, Transcript 14 June 2005, p. 68.

¹⁰⁶⁵ Colonel Richard Iron, Transcript 14 June 2005, p. 28.

¹⁰⁶⁶ Colonel Richard Iron, Transcript 14 June 2005, p. 29.

¹⁰⁶⁷ Colonel Richard Iron, Transcript 14 June 2005, p. 30.

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from the AFRC and RUF, who, at this stage, were much stronger than the CDF. So the CDF leadership recognised that they must first preserve their organisation and then build up their strength so as then subsequently to counter-attack against junta forces. The establishment of a safe base, a safe haven, at Talia was a strategic decision that ensured the survival of the CDF. And the decision to mass recruit people directly into the CDF rather than through the chieftdom system allowed a significant recruitment, a significant enlargement of the CDF and the creation of an offensive force, an offensive capability at Base Zero in Talia.”¹⁰⁶⁸

661. As to military strength, the expert indicated that the number of combatants was difficult to assess accurately, but was 5,000 to 10,000 Kamajors around Talia with a similar number dispersed territorially.¹⁰⁶⁹
662. As to the communication system within the CDF the expert said that there were very few, if any, radios being used, so the communications had to be run by hand. Motorbikes and mopeds were also used. The expert noted that in the south and western area, the area under the direct control from Base Zero from Talia, including Bo and Koribundo operations, the flow of communications appears to have been good.¹⁰⁷⁰ Despite practical limitations, communications “throughout this period and throughout this region were good and the command, High Command, in Talia understood what was going on, on the ground, even if it was a few hours or maybe a few days later.”¹⁰⁷¹
663. The expert was of the opinion the CDF had high morale. In addition, the process of initiation aided in the creation of cohesion within the CDF. This cohesion in a military organisation is very important, a sense of belonging. Initiation was an important part of building the morale component within the CDF. In addition, immunization was an important part of building the will to fight.¹⁰⁷²
664. The expert noted that there was a great deal of personal loyalty to Hinga Norman which helped to create cohesion. And the leadership's promotion of initiation and immunization was very important.¹⁰⁷³ Discipline was a very complex issue. Very strict

¹⁰⁶⁸ Colonel Richard Iron, Transcript 14 June 2005, p. 31.

¹⁰⁶⁹ Colonel Richard Iron, Transcript 14 June 2005, p. 32.

¹⁰⁷⁰ Colonel Richard Iron, Transcript 14 June 2005, p. 34.

¹⁰⁷¹ Colonel Richard Iron, Transcript 14 June 2005, p. 35.

¹⁰⁷² Colonel Richard Iron, Transcript 14 June 2005, p. 36.

¹⁰⁷³ Colonel Richard Iron, Transcript 14 June 2005, p. 36.

discipline was enforced in the obeying of orders, direct orders, and if a commander failed to obey, for example, one of Hinga Norman's orders, then he could expect to be punished. But there were other areas that in which discipline was lax where wrongdoings went uninvestigated and unpunished. This was particularly so in Base Zero. In the opinion of the expert, the environment, the culture, the ethos that was created in Base Zero transferred itself into the battle field. That is, if a Kamajor did something wrong it would not be investigated and punished¹⁰⁷⁴ except if one did not follow Norman's orders.

665. Iron said there was a demonstrated level of coherence between the strategic, operational and tactical levels within the CDF, in particular at the higher, tactical levels.¹⁰⁷⁵ Colonel Iron stated that there was definitely effective command, with the ultimate military power within the CDF belonging to Hinga Norman.¹⁰⁷⁶
666. The witness noted that there were two types of organisation within the CDF. There was the dispersed organisation and the focused organisation based at Talia. The expert focused mainly on the group operating in the southwest, mainly the Kamajors. The key to the CDF lay in its offensive capability in Talia.¹⁰⁷⁷
667. The witness said he had come across evidence which suggested that General Khobe did not assume personal responsibility for the organisation of the CDF after February 1998. It was the understanding of the witness that there was difficulty over command and the relationship between these two organisations.
668. The witness stated that the centralised command and control of most of the CDF had already been achieved before February 1998 with the creation of this major force at Talia. After the intervention and the recapture of much of Sierra Leone by ECOMOG and CDF, the CDF established its network of command to absorb the territorial forces that were in other regions, other than the south and west.¹⁰⁷⁸
669. The witness said that after February 1998, after the ECOMOG intervention, the CDF and ECOMOG tended to operate together. There were difficulties in command because it

¹⁰⁷⁴ Colonel Richard Iron, Transcript 14 June 2005, p. 37.

¹⁰⁷⁵ Colonel Richard Iron, Transcript 14 June 2005, p. 39.

¹⁰⁷⁶ Colonel Richard Iron, Transcript 14 June 2005, p. 40.

¹⁰⁷⁷ Colonel Richard Iron, Transcript 14 June 2005, p. 43.

¹⁰⁷⁸ Colonel Richard Iron, Transcript 14 June 2005, p. 47.

appears that ECOMOG attempted to take CDF forces under command. This was resisted by CDF commanders, including Hinga Norman.¹⁰⁷⁹

670. As to ECOMOG being in command, the expert said, the issue of command was about, not titular command, but effective command. In order to exercise effective command, one needs to have the responsibility to make decisions; be able to exercise leadership and be able to exercise control. *The person who exercised all three of these for the CDF was Hinga Norman.*¹⁰⁸⁰ The witness said prior to February 1998, ECOMOG forces did not operate in conjunction with the CDF in Sierra Leone. CDF operations were mounted by themselves prior to the ECOMOG intervention.¹⁰⁸¹
671. Colonel Iron agreed that there was no established rank system within the CDF but each person knew his place, and everybody knew how the organisation worked. The expert doubted that government exiled in Guinea was able to either exert leadership or make decisions, or control what went on, on the ground with the CDF.¹⁰⁸²
672. The expert was of the opinion that as Talia was deep in the Kamajor area, so it fell to the Mende tribe and the Kamajors, essentially, to form the body of this capability that the CDF was able to create in 1997 and 1998.¹⁰⁸³ Colonel Iron classified the CDF as an unconventional army.¹⁰⁸⁴

TF2-EW2

673. The child soldier expert, TF2-EW2 possessed extensive experience in the field of child protection and the protection of child rights, including work with child combatants. The witness spent from July 1998 until March 2002 in Sierra Leone, working for UNICEF. The definition of a child depended on the time frame. In the pre-1999 dates, the government was using 15 years of age. In 1999 the government decided to use the larger definition of children as under the age of 18.¹⁰⁸⁵ The witness said that there was a need to identify the ages of children to ensure that better services to children were provided.¹⁰⁸⁶

¹⁰⁷⁹ Colonel Richard Iron, Transcript 14 June 2005, p. 49.

¹⁰⁸⁰ Colonel Richard Iron, Transcript 14 June 2005, p. 50 (emphasis added).

¹⁰⁸¹ Colonel Richard Iron, Transcript 14 June 2005, p. 51.

¹⁰⁸² Colonel Richard Iron, Transcript 14 June 2005, p. 70.

¹⁰⁸³ Colonel Richard Iron, Transcript 14 June 2005, p. 73.

¹⁰⁸⁴ Colonel Richard Iron, Transcript 14 June 2005, p. 79.

¹⁰⁸⁵ TF2-EW2, Transcript 14 June 2004, p. 11.

¹⁰⁸⁶ TF2-EW2, Transcript 14 June 2004, p. 13.

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674. The witness said that when she arrived in Sierra Leone in 1998 she was informed that the definition of a child being used by the CDF was those who were 14 years of age and under. The witness had access to a wide range of information which she described in her evidence. The statistical information given to her at that time was an estimate of approximately 1000 children with the CDF; that is under 15 years of age. The witness personally saw children under the age of 15 years with the CDF, mostly around Bo and the Southern Province. The children were manning checkpoints and some were just walking around.¹⁰⁸⁷
675. The witness noted that in the Southern Province, there were times they were armed; there were times they were not. Some of the children would hand over their weapon because they went to school and they left their weapon with somebody else. Most of the information about such children came from the field.¹⁰⁸⁸ In her report, the witness noted that children "as young as 7 years old dance in front of the advancing CDF warriors as they went into battle." That information came from the Special Representative for Children in Armed Conflict.¹⁰⁸⁹ The witness met with Hinga Norman to speak about the disarmament of child soldiers.
676. TF2-140 was a child soldier who traveled with Norman as his "personal son." He spoke about traveling to Guinea with Norman. He stated, "shortly after we left Guinea, Chief Norman had a decision to say that all small boys were exempted from the war and, as such, he was trying to re-organise us in our numbers so that he could hand us over to programmes."¹⁰⁹⁰ This testimony reveals that Norman was aware of the use of child soldiers and the need to stop using such children, especially upon the entry of international organizations into Sierra Leone.
677. In the report it is noted that 300 children had been registered and would be disarmed and demobilized from the CDF in the Southern Province alone.¹⁰⁹¹ The CDF handed over registered child combatants, the children were under 14 years of age. On 12th of June 2000, a Kamajor militia man handed over 138 children to UNICEF. Both boys and these children were handed over by the CDF stating that they had found or captured them from

¹⁰⁸⁷ TF2-EW2, Transcript 16 June 2005, p. 17.

¹⁰⁸⁸ TF2-EW2, Transcript 16 June 2005, p. 18.

¹⁰⁸⁹ TF2-EW2, Transcript 16 June 2005, p. 19.

¹⁰⁹⁰ TF2-140, Transcript 14 September 2004, pp. 100 (lines 7-11).

¹⁰⁹¹ TF2-EW2, Transcript 16 June 2005, p. 21.

the RUF/AFRC. A large number of these children were actually wearing traditional CDF costumes. These children stated that they were CDF and they all had gone through their initiation.¹⁰⁹²

678. The expert said that not all the children were child combatants. Some of them were children that the CDF had found following some fighting in that area where the children had run to them for safety. So the group was a mixed group but none of the children in that group was a child fighter from another fighting force.¹⁰⁹³ After examination the age of that group was found to be 8 to 16.

679. From October 1999 to May 2000, the second phase, 445 children were registered as relating to the CDF. This is estimated to be 5.2 per cent of all CDF combatants.¹⁰⁹⁴ The witness was cross-examined as to the age verification techniques applied and the report was admitted as Exhibit 100.

General Observations in Relation to the Defence Evidence

680. It is appropriate that consideration be given to the matters raised by defence counsel on behalf of their respective clients, through witnesses and exhibits. It is the Prosecution's submission that the Defence, individually or as a whole, did not raise any reasonable doubts as to the criminal liability of the three accused persons.

681. The opening statements of defence counsel are not evidence; however, such pronouncements can assist in understanding the evidence brought by the respective defence teams. Admissions can be made through defence counsel and some issues were addressed in that form during the trial. For example Fofana, through his counsel, did not deny his membership of the CDF.

682. The Prosecution makes the following comments as to the nature of the defence case. In doing so, the Prosecution relies upon the application by the Trial Chamber of its combined knowledge and experience in arriving at the facts, before applying those findings to the legal framework. A number of issues can be resolved at the level of common sense, while others require the drawing of inferences after a careful review of the facts.

¹⁰⁹² TF2-EW2, Transcript 16 June 2005, p. 24.

¹⁰⁹³ TF2-EW2, Transcript 16 June 2005, p. 25.

¹⁰⁹⁴ TF2-EW2, Transcript 16 June 2005, p. 31.

683. It can be said that, generally, each of the accused has presented a similar defence. It cannot be suggested, or at least it would appear not to have been raised, that the Accused did not know each other, did not operate together in some capacity or that over the relevant time there was a divergence between them. The three Accused relied upon common witnesses in order to attempt to raise a reasonable doubt as to their respective guilt. The separate witnesses called by the respective defence teams dealt with matters that tended only to impact on one particular accused, rather than seek to distance themselves from the activities of the other accused men. That is, overall, the defence sought to raise a unilateral defence, namely that the Accused were not criminally responsible for the unlawful activities of the CDF.
684. In considering generally the defence, it is submitted a number of propositions arise out of the manner in which witnesses and exhibits were approached. These matters are raised so that when the Trial Chamber comes to consider the evidence presented against each of the Accused it can be seen that no effective defence has been raised by any of them. The Defence have provided a number of theories as to how the criminal acts were committed by the CDF. The following are issues upon which the Defence apparently rely:

No one was in charge – the CDF was an anarchical organisation

685. A significant proportion of the Defence case is based on the assumption that no one was actually in charge of the Kamajors or the CDF. There is an underlying Defence theme that the Kamajors or the CDF were without a central executive body, in that it was the combatants at the front who made all the decisions, without reference to the headquarters based at Talia. However, as the evidence elucidates, the CDF attacked in a co-ordinated manner; it was not the case that they were an amorphous group of random combatants without any central control. Any objective observer would appreciate they were following orders in order to achieve considered outcomes; it was not a random coincidence, for example, that different groups of Kamajors joined together to attack a town at the same time.
686. It is accepted that at the 'general staff level' the CDF were not an extensive organisation as noted by Colonel Irons, but in the type of war being fought the command structure was both appropriate and effective. Power was concentrated in the hands of a few

people; many combatants were called 'commanders' but only the three accused men had actual, effective power.

The CDF was Controlled by Chiefs Through the War Council

687. The evidence established that over time the power of the chiefs, as they came together in Talia, diminished. At an earlier time, the chiefs recommended persons to become Kamajors but as the war progressed recruits went directly to Base Zero for incorporation into the new Kamajors, by way of the secret ceremonies created by Kondewa.
688. The War Council was not in existence for a long period of time and, at the most, provided advice to Norman which Norman could accept or reject. It was created in the anticipation that the chiefs, as was their traditional role, would have a part to play in the war but the nature of the war was such that the chiefs could not and did not contribute in any significant manner; other than one meeting in Kenema there was not even formal notes kept of their meeting. The War Council controlled no one; at its peak it provided advice to Norman who could choose to accept or reject such advice.

'Bad Elements'

689. The 'rogue element' defence arises as the Defence suggest that any offences committed by the Kamajors came about through persons acting outside the ambit of their authority or acting in a manner not consistent with their orders. This defence assumes that the CDF was an ordered body but some elements acted in an undisciplined manner.
690. The charges laid against the accused came about because the Kamajors or the CDF followed the orders of the three Accused. The killing of policemen at Kenema, for example, was not the actions of rogue elements; as the evidence transpires Norman gave orders to kill Police and they were killed.¹⁰⁹⁵ At times, Norman gave orders, such as to kill all the civilians in Koribundo¹⁰⁹⁶ and those orders were not followed – hardly the basis for a claim of rogue elements committing offences. If there were rogue elements in the Kamajors or the CDF, they were persons not following orders to kill anyone who was a 'rebel'.

¹⁰⁹⁵ Evidence of TF2- 033, TF2-039, TF2-040, TF2-042

¹⁰⁹⁶ Evidence of TF2-008, TF2-014, TF2-082

691. On some occasions it was suggested that rebels dressed in 'ronko'; however, in the crime bases such as Koribundo, Kenema, Bo and so on there is no doubt the persons committing the offences were Kamajors as testified by the witnesses and indeed Kamajors themselves.

The Lack of understanding of witnesses as particular level in organisation

692. Witnesses were called by the Defence who testified that they did not know who was in charge of the organisation or said that they never received any orders directly from one of the Accused. That position, of course, may well be correct in that the witness was of such a level within the organisation that it was highly unlikely that they would ever receive a direct order from an Accused or even be in a position to receive such an order.
693. The titles according to members of the CDF of Kamajors did not tend to have a great deal of significance at the ground level; often the term 'commander' did not bring with it an understanding or appreciation of the manner in which the organisation operated. Consequently, a witness could truthfully testify that he was unaware of the command structure of the CDF yet, at the same time, acknowledge that he did receive orders; he simply did not know the source of the orders.
694. Such witnesses did establish that there was a command structure in the CDF; however (as to be expected in any organisation) many persons did not know the source of the particular orders. The ignorance of some members of the CDF cannot found a valid defence, in the light of the evidence.
695. Another category of witnesses called by the defence were those who simply did not know anything about the events under consideration by the Court. Such witnesses will not assist the Trial Chamber in its final determination. M.T.Collier from Talia, for example ultimately said that all he knew about the Kamajors was that they ate rice and left.

President Kabbah was in Command of the CDF

696. The Defence has sought to raise this issue on a number of levels, including under the heading of 'persons bearing the greatest responsibility.' President Kabbah was the commander-in-chief of the armed forces at the relevant times; however, his role

significantly diminished due to his exile in Guinea. President Kabbah was not involved in directing the war in any practical sense; he was the figurehead for a government which had been forced into exile.

697. No witnesses, including Norman, testified that President Kabbah issued any military orders. He did provide materials to assist the armed resistance, including the CDF, but he did not have any actual control over the conduct of the war.

ECOMOG was in Command

698. A central defence proposition was that, during the relevant times, ECOMOG was in charge of the Kamajors. As the evidence demonstrates, ECOMOG, for example, was not present when Tongo was recovered by the Kamajors, nor when Koribundo was taken, nor was ECOMOG in Kenema when that town was successfully attacked. ECOMOG troops were present at some places, such as Bo, some days after the Kamajors had taken that city.
699. General Khobe was promoted to control over the Sierra Leone Army at the end of the war. However, at the time of the coup, Colonel (as he then was) Khobe was in charge of the small Nigerian contingent based at Lungi and nearby areas; he was not in charge of ECOMOG whilst at Lungi. Again, one must be careful when assessing the evidence to ensure that the time line are not blurred, otherwise, for example, one may draw the incorrect conclusion that General Khobe was in charge of ECOMOG troops from the time he was at Lungi.
700. ECOMOG in theory may have had control over the CDF but they were not present when the Kamajors committed the offences as outlined in the Indictment. It took some time before ECOMOG was in a position to control the activities of the Kamajors.

Albert Nallo

701. Albert Nallo was an 'insider' who was an important person within the hierarchy of the CDF. It is not in dispute that Nallo bore some responsibility for the offences listed in the Indictment.
702. As Nallo was an insider witness he was entitled to certain protections which were extended to him by the Court. At the same time, his evidence should be subject to

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attitudinal scrutiny because of the position he held in the CDF and his willingness to testify in the trial of the three accused men. When the testimony of Nallo is reviewed it can be observed that, overall, his statements to the Court were corroborated by other witnesses especially in respect of the role of the War Council, the position of the three Accused and the conduct of the war.

703. A number of defence witnesses were called to testify, for example, that Nallo did not kill the people he said he killed and suggestions were made about his dishonest dealing in rice. The Prosecution maintains that the credibility of Nallo has not been impugned and that is underlined by other witnesses who testified in similar areas.

Kamajor laws

704. The nature and content of the Kamajor laws were frequently cited, purportedly as a barrier which prevented the Kamajors from committing offences. Laws, as the Court would know, do not provide an absolute barrier to the commission of offences. Kondewa was the chief priest who controlled the laws of the Kamajors, as promulgated under his regime. He was the person who sent the Kamajors to war, under his blessing, and his control was such that he determined whether a Kama or retained the most important of gifts, that of being bullet-proof.
705. The evidence of the victims before the Court established that the rules were not a barrier to the Kamajors committing offences.

The timing of the charges in the Indictment

706. The Trial Chamber will be conscious of the timeline in which these events occurred, with the majority of the offences taking place from late 1997 through to the early months of 1997; that is, when the Kamajors were in control from Base Zero, as they shifted from a defensive strategy to an offensive strategy.
707. A significant amount of the evidence adduced dealt with the time period before the coup and after the return of President Kabbah. One has to be careful when considering the evidence, especially when extrapolating backwards that the evidence properly reflects the conditions during the period of the Indictment. For example, the fact that some time after the return of the President, Norman lost his pre-eminence in the CDF and Kondewa

- lost his position does not mean that they never held their respective positions, or exercised control over the CDF. There was a changing political landscape over time, which is to be expected as a country went from a war-time footing to the previously exiled government regaining control over the country.
708. An example of confusion in time is the suggestion that the National Coordination Committee (NCC) had a role to play in controlling the Kamajors at the time the offences were committed. The NCC was created after the time when most of the offences had been committed and was only an administrative body.
709. The defence have sought to blur the timeline of events. Events that occurred after war's end are used to justify actions of the Three Accused during the period of indictment. It must be noted that most offences occurred between 1 November 1997 and 30 April 1998, although it is acknowledged that the indictment time frame is extended until December 1999.
710. Norman Defence exhibit 120 dated 29 January 1999 attempts to obscure the timeline of events.¹⁰⁹⁷ The Prosecution submits this exhibit has no exculpatory value for the Defence case. Exhibit D120 indicates some effort to set up a committee in January 1999, well outside the effective dates of commission of crimes charged in the Indictment.
711. Likewise, the Norman Defence tendered exhibit 123, a paper titled "Organogram of the Civil Defence Forces in Sierra Leone." This exhibit has little or no exculpatory value as its source and date are unknown as is the period that the hierarchy existed, if it all.
712. The Norman Defence also tendered exhibit 127, which shows a CDF structure which is significantly different from that previously tendered under 123, thereby placing doubt on both documents.¹⁰⁹⁸ Furthermore, there is no date on the document to give an indication of a time frame within which this structure existed.
713. The vagueness in the Norman Defence case, in respect of time frames, is a matter that impacts upon the reliability of the evidence. At the same time, the Norman Defence case, in respect of the majority of the documents tendered, deal with late 1999.

Analysis of Forensic Evidence

¹⁰⁹⁷ Exhibit P120;

¹⁰⁹⁸ Exhibit P127; Exhibit P123

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714. The Prosecution presented expert forensic evidence before the Court to substantiate the charges of unlawful killings and physical violence for the Bo Crime base.¹⁰⁹⁶ In his evidence, Bill Haglund, a recognized expert in forensic pathology detailed his findings in a Report¹⁰⁹⁷ resulting from his forensic investigation and examination of the remains removed from graves in the Mahiboima District, City of Bo.
715. Forensic analyses were conducted of three victims (MHB-C-01, MHB-C-02, MHB-C-03) from one grave and one victim (MHB-B-01) from another grave. The cause of death of all four victims was a sharp and blunt force causing injuries to the face and head. The manner of death was homicide.¹⁰⁹⁸
716. The Prosecution submits that these findings are consistent with the evidence adduced before the Court relating to the unlawful killings and physical violence and mental suffering charges for the Bo Crime base. TF2-156 gave evidence that one evening whilst at his aunt's house he saw a man called Sorie being chased by Kamajors. The Kamajors then came into their house and captured him and his brothers. They were taken out into the street. The Kamajors told him that "anyone found in Bo town should be shot." The Kamajors then started chopping the witness, his brothers and others. His two brothers were killed at the scene, by Kamajors using cutlasses.¹⁰⁹⁹ The witness demonstrated to the Court scars of injuries to his neck, stomach, chest and right side of his face.¹¹⁰⁰ Later, the witness was present when persons from the Special Court exhumed the bodies of his brothers.
717. Exhibit 101 demonstrates that TF2-156 had numerous scars to his right orbital area and cheek, right and left lower legs. In the medical opinion of Haglund, TF2-156 received at least five blows (chops) with instruments such as a machete to the right side of his face, three blows to his chest and at least two blows to his right leg. These injuries were life threatening and, without the assistance of medical care, the wounds would most likely have proven fatal.¹¹⁰¹

¹⁰⁹⁶ Bill Huglund, Transcript 20 June 2005.

¹⁰⁹⁷ Exhibit P101(4): Pathologist's Review, Cause and Manner of Death, 24 February 2004, p. 48 (7680).

¹⁰⁹⁸ Exhibit P101(1-6): Exhibits of Prosecution Expert Bill Huglund, 4-10 November 2003.

¹⁰⁹⁹ TF2-156, Transcript 25 November 2004, p. 42.

¹¹⁰⁰ TF2-156, Transcript 25 November 2004, pp. 42.

¹¹⁰¹ Ibid., pp. 44-45.

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CONCLUSION

718. It is submitted that the Court can be satisfied beyond a reasonable doubt that all the offences charged in the Indictment occurred as charged. As a consequence of the Rule 98 procedure, the crime bases which were not supported by evidence were identified and have been withdrawn. As an aid to the Court, a chart identifying the relevant witnesses by count and crime base is annexed to this brief as Annex I.
719. The Defence case, and to a significant degree it is a common Defence case, involved the calling of witnesses who appeared unable, or unwilling, to contribute meaningfully to the body of evidence. Such witnesses did not, and should not, impact on the evidence called throughout the Prosecution case. At times, as noted, the defence witnesses even bolstered the Prosecution case.
720. Norman, while giving evidence on his own behalf, was equally unhelpful. He said that Fofana was one of those elders at Talia, and that all elders around that place assisted in various ways. When probed under cross-examination, he could not be specific how Fofana assisted at Talia.¹¹⁰⁵ When asked whether Fofana had any other role besides being an elder, Norman replied that he never assigned him a role nor does he know of the assignment of a role either by the War Council or anybody.¹¹⁰⁶ Evidence was led to the contrary by the Fofana Defence team through the tendering of Exhibit 59, Fofana's Letter of Appointment to the position of National Director of War. It is interesting to note that that the letter was signed by no other person than Norman himself. Therefore, it is reasonable to conclude that it is not true when Norman claimed not to be aware of any form of assignment for Fofana.
721. It should be noted that the victims of the crimes were compelling and forthright in their testimony; their evidence forms the basis of the Prosecution case. The Defence sought to impugn the credit of Nallo, who is an important witness, but Nallo does not stand alone in telling the story of the words and acts of the three Accused during the relevant time period. To assist the Court by putting faces to the names or pseudonyms of witnesses, the Prosecution attaches, as Annex II, photographs of Prosecution factual witnesses. This Annex is to be handled with the strictest confidence.

¹¹⁰⁵ Accused Sam Hinga Norman, Transcript 6 February 2006 at p. 30

¹¹⁰⁶ *id*

722. The Prosecution submits that all the evidence points to one inescapable conclusion – the three Accused exercised absolute control over the CDF; the CDF, especially the Kamajors, followed the orders of the three Accused. Embedded in those orders was the fundamental command, expressed in a number of ways to the combatants, to win the war ‘at all costs’; consequently the CDF combatants (including the many child soldiers) implemented those orders across the field of war against anyone, and any property, that fell under the broad, fatal, definition of being a ‘rebel’, collaborator or sympathiser. Any failure to follow those orders was due to tactical considerations, it was not due to the intervention of any of the Accused men.
723. The Prosecution submits that on the basis of all the evidence presented during its case, the Trial Chamber can be satisfied, beyond reasonable doubt, of the guilt of each the Accused under all counts of the Indictment.
724. It is the Prosecution’s view that the three Accused can be found liable under various modes of liability set out in Article 6 (1), as well as under Article 6(3) in respect of a single count. The Prosecution submits that this Trial Chamber should make findings on *all* modes of liability in respect of which evidence has been led for each count, even if more than one mode of liability describes the extent of an Accused participation under a particular count. For example, an accused may be found to have instigated a series of crimes falling under one count, and also to have committed some of those crimes. Similarly, an Accused may be found liable as a superior as well as directly responsible under Article 6(1). Findings of multiple modes of liability will be taken into account at the sentencing stage. For example, if an accused is found liable under both Articles 6(1) and 6(3) in respect of the same act, the superior responsibility should be considered as an aggravating factor.¹¹⁰⁷

¹¹⁰⁷ As is well known, when more than one form of individual criminal responsibility is found to have been proven by the Prosecutor, the Trial Chamber will weigh these various forms and the other relevant factors to decide on the appropriate sentencing. See for example *Prosecutor v. Dragan Obrenovic*, IT-02-60/2-S, Sentencing Judgment, 10 December 2003, para. 88 and 90: “Weighing Dragan Obrenovic’s different forms of individual criminal responsibility, the Trial Chamber finds that Dragan Obrenovic’s liability stems primarily from his responsibilities as a commander. (...) Considering these facts the Trial Chamber finds a sentence in the range of 20 years to 40 years imprisonment to be appropriate based on the gravity of the crime committed by Dragan Obrenovic, and particularly his role and participation in the commission of that crime, and having taken into consideration the sentencing practices in the former Yugoslavia as well as the sentencing practices of this Tribunal.” (Emphasis added)

725. The Prosecution submits that multiple convictions must be entered when they are admissible. Indeed, “[m]ultiple convictions serve to describe the full culpability of a particular accused or provide a complete picture of his criminal conduct.”¹¹⁰⁸ The Prosecution submits that the intention of the lawmakers of the Statute was indeed to allow that convictions for the same conduct constituting distinct offences under several of the Articles of the Statute be entered, as it was the case for the Security Council regarding the ICTY and ICTR Statutes.¹¹⁰⁹
726. Multiple criminal convictions entered under different statutory provisions but based on the same conduct are permissible if each statutory provision involved has a materially distinct element not contained in the other.¹¹¹⁰ An element is materially distinct from another if it requires proof of a fact not required by the other.¹¹¹¹ Where this test is not met, the Chamber “must decide in relation to which offence it will enter a conviction. This should be done on the basis of the principle that the conviction under the more specific provision should be upheld.”¹¹¹²
727. Multiple convictions entered under an offence set out in Article 2 (crime against humanity) and a crime set out in Articles 3 or 4 (violations of Common Article 3 to the Geneva Conventions and Additional Protocol II, and Other Serious Violations of International Humanitarian Law) are permissible. Indeed, the jurisprudence has settled that Articles 3 or 4 require a close link between the acts of the accused and the armed conflict, while this element is not required by the Article 2.¹¹¹³ On the other hand, Article 2 requires proof that the act occurred as part of a widespread or systematic attack against a civilian population; that element is not required by Articles 3 or 4. Thus, Article 2 and Article 3 or 4 have an element requiring proof of a fact not required by the other. As a result, cumulative convictions under both Article 2 and 3 or 4 are

¹¹⁰⁸ *Prosecutor v. Kunarac et al., Judgement*, IT-96-23, IT-96-23/1-A, App. Ch., 12 June 2002, para. 169 (footnote omitted).

¹¹⁰⁹ *Prosecutor v. Kunarac et al., Judgement*, IT-96-23, IT-96-23/1-A, App. Ch., 12 June 2002, para. 178.

¹¹¹⁰ *Prosecutor v. Kunarac et al., Judgement*, Case No. IT-96-23, IT-96-23/1-A, App. Ch., 12 June 2002, para. 196.

¹¹¹¹ *Prosecutor v. Kunarac et al., Judgement*, Case No. IT-96-23, IT-96-23/1-A, App. Ch., 12 June 2002, para. 196.

¹¹¹² *Prosecutor v. Delalić et al. (Čelebići case), Judgement*, Case No. IT-96-21-A, App. Ch., 20 February 2001, paras. 412-413 (see also para. 421). See also the Separate and Dissenting Opinion of Judge Hunt and Judge Bennouna, paras. 13-23.

¹¹¹³ *Prosecutor v. Jelisić, Judgement*, IT-95-10-A, App. Ch., 7 July 2001, para. 82

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permissible. War crimes contained under Articles 3 or 4 do not constitute 'lesser included offences' of crimes against humanity.¹¹¹⁴

728. Similarly, the jurisprudence has now settled that cumulative convictions on the basis of the same acts under one Article of the Statute (for example under more than one paragraph of Article 3 when conduct violates at the same time the prohibition of Pillage, Acts of Terrorism and Collective Punishment) are permissible provided that the test above is met.¹¹¹⁵

729. The Prosecution submits that there must be a finding on the Indictment that each Accused is either guilty or not guilty of the count.¹¹¹⁶ Where an Accused is found not guilty for the sole reason that to find otherwise would produce an impermissible cumulative conviction, the disposition should be in terms such as "Not guilty on the basis that a conviction on this charge would be impermissibly cumulative."¹¹¹⁷

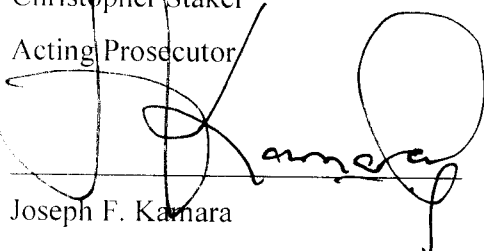
730. The consequence of concurrence should be dealt with at the sentencing stage, by sentencing the accused concurrently for cumulative charges.

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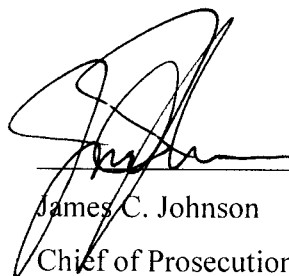
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Chief of Prosecution

¹¹¹⁴ *Prosecutor v. Jelisić, Judgement*, IT-95-10-A, App. Ch., 7 July 2001, para. 82

¹¹¹⁵ *Prosecutor v. Kordić & Čerkez, Judgement*, IT-95-14/2-A, App. Ch., 17 December 2004, para. 1039-40.

Prosecutor v. Krnojelac, Appeal Judgement, IT-97-25-A, App. Ch., 17 September 2003, para. 188. *Prosecutor v. Vasiljević, Appeal Judgement*, Case No. IT-98-32-A, App. Ch., 25 February 2004, para. 146. *Prosecutor v. Krstić, Appeal Judgement*, Case No. IT-98-33-A, App. Ch., 19 April 2004, para. 231.

¹¹¹⁶ *Prosecutor v. Delalić et al. (Čelebići case), Judgement*, Separate and Dissenting Opinion of Judge Hunt and Judge Bennouna, Case No. IT-96-21-A, App. Ch., 20 February 2001, para. 59.

¹¹¹⁷ *Prosecutor v. Delalić et al. (Čelebići case), Judgement*, Separate and Dissenting Opinion of Judge Hunt and Judge Bennouna, Case No. IT-96-21-A, App. Ch., 20 February 2001, para. 59.

INDEX OF AUTHORITIES**ICTY/ICTR Cases:**

1. *Prosecutor v. Strugar*, IT-01-42-T, “Judgement”, Trial Chamber, 31 January 2005

<http://www.un.org/icty/strugar/trialc1/judgement/index2.htm>

2. *Prosecutor v. Kupreškić et al*, IT-95-16-A, “Appeal Judgement”, Appeals Chamber, 23 October 2001.

<http://www.un.org/icty/kupreskic/appeal/judgement/index.htm>

3. *Prosecutor v. Kunarac et al.* , IT-96-23&23/1, “Judgement”, Trial Chamber, 22 February 2001.

<http://www.un.org/icty/kunarac/trialc2/judgement/index.htm>

4. *Prosecutor v. Delalić et al. (Čelebići case)*, IT-96-21-A, “Judgement”, Appeals Chamber, 20 February 2001.

<http://www.un.org/icty/celebici/appeal/judgement2/index.htm>

5. *Prosecutor v. Delalić et. al*, IT-96-21-T, “Judgement,” Trial Chamber, 16 November 1998.

<http://www.un.org/icty/celebici/trialc2/judgement/index.htm>

6. *Prosecutor v. Kajelijeli*, ICTR-98-44A-A, “Judgement,” Appeals Chamber, 23 May 2005, paras. 96-97.

<http://69.94.11.53/ENGLISH/cases/Kajelijeli/judgement/appealsjudge230505.doc>

7. *Prosecutor v. Semanza*, ICTR-97-20-A, “Judgement”, Appeals Chamber, 20 May 2005.

<http://69.94.11.53/ENGLISH/cases/Semanza/decisions/200505-Appeal-Judgement.doc>

Prosecutor v. Limaj et al., IT-03-66-T, “Judgement”, Trial Chamber, 30 November 2005.

8. <http://www.un.org/icty/limaj/trialc/judgement/index.htm>

Prosecutor v. Blagojević and Jokić, IT-02-60-T, “Judgement”, Trial Chamber, 17 January 2005.

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<http://www.un.org/icty/blagojevic/trialc/judgement/index.htm>

9. *Prosecutor v. Aleksovski*, IT-95-14/1-A, “Judgement”, Appeals Chamber, 24 March 2000.

<http://www.un.org/icty/aleksovski/appeal/judgement/nob-aj010530e.htm>

10. *Prosecutor v. Simić et al.*, IT-95-9-T, “Judgement”, Trial Chamber, 17 October 2003.

<http://www.un.org/icty/simic/trialc3/judgement/index1.htm>

11. *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, “Judgement”, Appeals Chamber, 17 December 2004.

<http://www.un.org/icty/kordic/appeal/judgement/index.htm>

12. *Prosecutor v. Halilović*, IT-01-48-T, “Judgement”, Trial Chamber, 16 November 2005.

<http://www.un.org/icty/halilovic/trialc/judgement/index.htm>

13. *Prosecutor v. Naletilić and Martinović*, IT-98-34-T, “Judgement”, Trial Chamber, 31 March 2003.

<http://www.un.org/icty/naletilic/trialc/judgement/index.htm>

14. *Prosecutor v. Vasiljević*, IT-98-32-T, “Judgement”, Trial Chamber, 29 November 2002.

<http://www.un.org/icty/vasiljevic/trialc/judgement/index.htm>

15. *Prosecutor v. Nahimana, 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.

<http://69.94.11.53/ENGLISH/cases/Nahimana/decisions/100403.htm>

16. *Prosecutor v. Milan Babic*, IT-03-72-S, “Judgement”, Trial Chamber, 29 June 2004.

<http://www.un.org/icty/babic/trialc/judgement/index.htm>

17. *Prosecutor v. Nikolic*, IT-02-60/1-S, “Judgement”, Trial Chamber, 2 December 2003.

<http://www.un.org/icty/nikolic/trialc/judgement/index.htm>

18. *Prosecutor v. Brđanin*, IT-99-36-T “ Decision on Prosecution’s Submission of Statement of Expert Witness Ewan Brown,” Trial Chamber, 3 June 2003.

<http://www.un.org/icty/brdjanin/trialc/decision-e/030603.htm>

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19. *Prosecutor v. Hadžihasanović and Kubura*, IT-01-47-T, T “Decision on Report of Prosecution Expert Klaus Reinhardt”, Trial Chamber 11 February 2004, p. 4.
<http://www.un.org/icty/hadzihas/trialc/decision-e/040211.htm>
20. *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, “Decision on Request for Severance of Three Accused”, Trial Chamber, 27 March 2006.
<http://69.94.11.53/ENGLISH/cases/Bagosora/decisions/270306.htm>
21. *Prosecutor v. Strugar*, IT-01-42-T “Decision on the Defence Objection to the Prosecution’s Opening Statement Concerning Admissibility of Evidence”, Trial Chamber, 22 January 2004.
<http://www.un.org/icty/strugar/trialc1/decision-e/040122.htm>
22. *Prosecutor v. Kamuhanda*, ICTR-95-54A-T, “Judgement and Sentence”, Trial Chamber, 22 January 2004.
<http://69.94.11.53/ENGLISH/cases/Kamuhanda/judgement/220104.htm>
23. *Prosecutor v. Musema*, ICTR-96-13-T, “Judgement”, Appeal Chamber, 16 November 2001.
<http://69.94.11.53/ENGLISH/cases/Musema/judgement/Arret/index.htm>
24. *Prosecutor v. Rutaganda*, ICTR-96-3-A, “Judgement,” Appeals Chamber, 26 May 2003.
<http://69.94.11.53/ENGLISH/cases/Rutaganda/decisions/030526%20Index.htm>
25. *Prosecutor v. Rutaganda*, ICTR-96-3-T, T. Ch. I. 6, “Trial Judgment and Sentence”, Trial Chamber, December 1999.
<http://69.94.11.53/ENGLISH/cases/Rutaganda/judgement/index.htm>
26. *Prosecutor v. Akayesu*, ICTR-96-4-T, “Judgement,” Trial Chamber, 2 September 1998.
<http://69.94.11.53/ENGLISH/cases/Akayesu/judgement/akay001.htm>
27. *Ntakirutimana*, ICTR-96-10 & ICTR-96-17, “Judgment and Sentence,” Trial Chamber 21 February 2003.
<http://69.94.11.53/ENGLISH/cases/NtakirutimanaE/judgement/index.htm>

28. *Prosecutor v. Ntakirutimana and Ntakirutimana*, ICTR-96-10-A and ICTR-96-17-A, “Reasons on the Decision for Request for Admission of Additional Evidence,” Appeals Chamber, 8 September 2004.

<http://69.94.11.53/ENGLISH/cases/NtakirutimanaE/decisions/080904.htm>

29. *Prosecutor v. Milošević*, IT-02-54-AR73.2, “Decision on Admissibility of Prosecution Investigator’s Evidence,” Appeals Chamber, 30 September 2002.

<http://www.un.org/icty/milosevic/appeal/decision-e/30115034.htm>

30. *Prosecutor v. Aleksovski*, IT-95-14/1-AR73 “Decision on Prosecutor’s Appeal on Admissibility of Evidence,” Appeals Chamber, 16 February 1999.

<http://www.un.org/icty/aleksovski/appeal/decision-e/90216EV36313.htm>

31. *Prosecutor v. Blaškić* “Judgement,” Trial Chamber, 3 March 2000.

<http://www.un.org/icty/blaskic/trialc1/judgement/index.htm>

32. *Prosecutor v. Miroslav Kvočka et al.*, IT-98-30/1-T “Judgement,” Trial Chamber, 2 November 2001.

<http://www.un.org/icty/kvocka/trialc/judgement/index.htm>

33. *Prosecutor v. Furundžija*, ICTY IT-95-17/1-T, Judgement, 10 December 1998.

<http://www.un.org/icty/furundzija/trialc2/judgement/index.htm>

34. *Prosecutor v. Milorad Krnojelac*, IT-97-25-A, “Judgement”, 17 September 2003.

<http://www.un.org/icty/krnojelac/appeal/judgement/index.htm>

35. *Prosecutor v. Stakić*, IT-97-24-T, “Judgement”, Trial Chamber, 31 July 2003

<http://www.un.org/icty/stakic/trialc/judgement/index.htm>

36. *Prosecutor v. Brđanin*, IT-99-36-T, “Judgement”, Trial Chamber, 1 September 2004.

<http://www.un.org/icty/brdjanin/trialc/judgement/index.htm>

37. *Prosecutor v. Galić*, IT-98-29-T “Judgement and Opinion”, Trial Chamber” 5 December 2003.

<http://www.un.org/icty/galic/trialc/judgement/index.htm>

38. *Prosecutor v. Kunarac et al.*, IT-96-23, IT-96-23/1-A, “Appeal Judgement”, Appeals Chamber, 12 June 2002.

<http://www.un.org/icty/kunarac/appeal/judgement/index.htm>

39. *Prosecutor v. Blaškić*, IT-95-14-A “Appeal Judgement,” Appeals Chamber, 29 July 2004.

<http://www.un.org/icty/blaskic/appeal/judgement/index.htm>

40. *Prosecutor v. Tadić*, IT-94-1-A, “Judgement”, Appeals Chamber, 15 July 1999

<http://www.un.org/icty/tadic/appeal/judgement/index.htm>

41. *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-T, “Decision on the Defence Motion for the Re-Examination of Witness DE”, Trial Chamber, 19 August 1998.

<http://69.94.11.53/ENGLISH/cases/KayRuz/decisions/dcs9808.htm>

42. *Prosecutor v. Rasevic*, IT-97-25/1-PT, “Decision regarding Defence Preliminary Motion on the Form of the Indictment”, Trial Chamber, 28 April 2004

<http://www.un.org/icty/rasevic/trialc/decision-e/040428.htm>

43. *Prosecutor v. Limaj et al.*, IT-03-66-T , “Decision on Prosecution’s Motions to Admit Prior Statements as Substantive Evidence”, Trial Chamber, 25 April 2005.

<http://www.un.org/icty/limaj/trialc/decision-e/050425-2.htm>

44. *Ndindabahizi*, ICTR-2000-71-I, “Judgment and Sentence,” Trial Chamber, 15 July 2004.

<http://69.94.11.53/ENGLISH/cases/Ndindabahizi/judgement/Ndindabahizi%20Judgment.pdf>

45. *Prosecutor v. Kordic and Cerkez*, IT-95-14/2-PT, “Decision on Prosecutor’s Motion on Trial Procedure”, Trial Chamber, 19 March 1999.

<http://www.un.org/icty/kordic/trialc/decision-e/90319WG57149.htm>

46. *Prosecutor v. Kupreskic et al.*, IT-95-16-T, “Decision on Communications Between Parties and their Witnesses”, Trial Chamber, 21 September 1998.

<http://www.un.org/icty/kupreskic/trialc2/decision-e/80921MS24517.htm>

20/04

47. *Prosecutor v. Kupreškić et al.*, IT-95-16-T, “Decision on Evidence of the Good Character of the Accused and the Defence of Tu Quoque”, IT-95-16-T, Trial Chamber, 17 February 1999.
- <http://www.un.org/icty/kupreskic/trialc2/decision-e/90217MS25407.htm>
48. *Prosecutor v. Krnojelac*, IT-97-25-T, “Judgement”, Trial Chamber, 15 March 2002.
49. *Prosecutor v. Kayishema*, ICTR-95-1-T, “Judgement and Sentence”, Trial Chamber, 21 May 1999.
50. *Stakic*, IT-97-24-T, Decision on Rule 98 *bis* Motion for Judgement of Acquittal, 31 October 2002.
51. *Prosecutor v. Tadić*, IT-94-1-T “Decision on Defence Motion on Hearsay”, 5 August 1996.
52. *Prosecutor v. Hassan Ngeze and Barayagwiza*, ICTR-99-52-I “Decision on the Defence Request to Hear the Evidence of Witness Y by Deposition,” 10 April 2003, para. 7.
53. *Prosecutor v. Galić*, *Decision on the Expert Witness Statements Submitted by the Defence*, Case No. IT-98-29-T, T. Ch. I, 27 January 2003.
54. *Prosecutor v. Simić et al.*, “Reasons for Decision on Admission of “Variant A&B” Document,” Case No. IT-95-9-T, 22 May 2002.
55. *Prosecutor v. Bagilishema*, ICTR-95-1A-T, “Judgement”, Trial Chamber, 7 June 2001.
56. *Prosecutor v. Bagilishema*, ICTR “Judgement,” Appeals Chamber, 3 July 2002.
57. *Prosecutor v. Blaškić*, IT-95-14-T, “Decision on Standing Objection of the Defence to the Admission of Hearsay with no Inquiry as to its Reliability,” Trial Chamber, 21 January 1998
58. *Prosecutor v. Simić et al.*, IT-95-9-T, “Reasons for Decision on Admission of “Variant A&B” Document,” Trial Chamber, 22 May 2002.
59. *Prosecutor v. Kvočka et al.*, IT-98-30-PT, “Decision on the ‘Request to the Trial Chamber to Issue a Decision on Use of Rule 90 H’”, Trial Chamber, 11 January 2001
60. *Prosecutor v. Jelisić*, IT-95-10-A, “Judgement”, Appeals Chamber, 5 July 2001
61. *Prosecutor v. Milutinović et al.*, IT-99-37-AR72, “Decision on Dragoljub Ojdanić’s Motion Challenging Jurisdiction—Joint Criminal Enterprise”, Appeals Chamber, 21 May 2003, para. 20.

20/05

62. *Prosecutor v. Rasevic*, IT-97-25/1-PT, “Decision regarding Defence Preliminary Motion on the Form of the Indictment”, Trial Chamber, 28 April 2004

SCSL Cases:

63. *Prosecutor v Norman, Fofana and Kondewa*, SCSL-04-14-PT, Decision on the Preliminary Defence Motion on the Lack of Personal Jurisdiction filed on behalf of Accused Fofana, 3 March 2004
64. *Prosecutor v. Fofana*, SCSL-04-14-PT-101, “Decision on Preliminary Motion on Lack of Jurisdiction Materiae, Nature of the Armed Conflict,” Appeals Chamber, 25 May 2004.
65. *Prosecutor v. Norman*, SCSL-04-14-AR72(E)-131-7383, SCSL-04-14-AR72(E)-131-7398, SCSL-04-14-AR72(E)-131-7413, SCSL-04-14-AR72(E)-131-7430, ‘Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment)’, Appeals Chamber, 31 May 2004.
66. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-PT-117, “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence,” Trial Chamber, 2 June 2004.
67. *Prosecutor v. Norman et al., Fofana*, SCSL-04-14-AR65, “Appeal Against Decision Refusing Bail, Appeals Chamber, 11 March 2005.
68. *Prosecutor v. Fofana*, SCSL-04-14-T-398, ‘Decision on Appeal against Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence’, Appeals Chamber, 16 May 2005.
69. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-T-447, “Decision on Prosecution’s Request to Admit Into Evidence Certain Documents Pursuant to Rules 92bis and 89(C)”, Trial Chamber, 14 July 2005.
70. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-T-458, “Motion for Judgment of Acquittal of the Third Accused Allieu Kondewa”, Trial Chamber, 4 August 2005.
71. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-T-473, “Decision on Motions for Judgment of Acquittal, Pursuant to Rule 98,” Trial Chamber, 21 October 2005.
72. *Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-16-T-469, “Decision on Defence Motions for Acquittal Pursuant to Rule 98,” Trial Chamber, 31 March 2006.
73. *Prosecutor v. Sesay, Kallon, Gbao*, “Decision on Defence Motion for Acquittal Pursuant to Rule 98,” Transcript, 25 October 2006.

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Other Authorities:

74. Antonio Cassese, *International Criminal Law*, Oxford University Press, 2003
75. UK Ministry of Defence, *The Manual of the Law of Armed Conflict*, Oxford, 2004.
76. Knut Doermann, *Elements of War Crimes under the Rome Statute of the International Criminal Court*, Cambridge University Press, 2002.
77. Rodney Dixon, Karim A.A. Khan and Judge Richard May (ed.), *Archbold International Criminal Courts*, Sweet & Maxwell Limited, 2003.
78. W. Fenwick, 'Attacking the Enemy Civilian as a Punishable Offence', *Duke Journal of Comparative and International Law*, Vol. 7.
79. Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Volume I: Rules, Cambridge University Press, 2005.
80. Y. Sandoz, C. Swinarski and B. Zimmerman (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC, Martinus Nijhoff, Geneva 1987.
81. Human Rights Watch (ed.), *Genocide, War Crimes and Crimes Against Humanity A Topical Digest of the Case Law of the International Criminal Tribunal for the Former Yugoslavia*, 2006.
82. The American Heritage Dictionary of the English Language, 4th ed., 2002.
83. Webster's Revised Unabridged Dictionary, 1996.

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ANNEX I: EVIDENCE ANALYSIS BY COUNT

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COUNTS 1 – 2: UNLAWFUL KILLINGS

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Tongo Fields	015	11 Feb-05	Norman	D. Hoffman	
	022	11 Feb-05	BJK Sei		
	027	18, 22 Feb-05	Siaka Lahai		
	047	22 Feb-05	Kamabotie		
	048	23 Feb-05	M. Kaineh		
	053	01 Mar-05	L. Bockarie		
	056	07 Dec-04			
	079	26 May-05			
	144	24 Feb-05			
Lalehun	013	24 Feb-05			
	016	01 Mar-05			
Kamboma	015	11 Feb-05			
Konia	027	18, 22 Feb-05			
Talama	035	14 Feb-05			D. Kelfala
Kenema	021	02 Nov-04	Norman	I.S. Koroma	
	033	20 Sep-04	I.S. Koroma	A. Koroma	
	039	23-24 Sep-04	A. Koroma	D. Hoffman	
	040	21 Sep-04	M. Kaineh		
	042	17 Sep-04	M.B. Koroma		
	053	01 Mar-05	B. Moriba		
	079	26 May-05	F. Bindi		
	151	22 Sep-04	L. Koroma		
	152	28 Sep-04	M.K. Swarray		
	154	27 Sep-04			
	201	4-5 Nov-04			
	223	28-30 Sep-04			
SS Camp	201	4-5 Nov-04	M.B. Koroma		
	223	28-30 Sep-04	F. Bindi L. Koroma M.K. Swarray		
Blama	041	24 Sep-04	I.S. Koroma		
	152	28 Sep-04			
	154	27 Sep-04			

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COUNTS 1 – 2: UNLAWFUL KILLINGS (Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Bo	001	14-15 Feb-05	Norman	M. Ngobeh	M. Bangura
	006	09 Feb-05	J. Nunie	K. Koker	
	014	10-15 Mar-05	K. Koker	D. Hoffman	
	017	19-22 Nov-04	M. Lumeh		
	030	25 Nov-04			
	056	06-07 Dec-04			
	057	29-30 Nov-04			
		08 Feb-05			
	058	03-06 Dec-04			
	067	02-07 Dec-04			
	088	25-29 Nov-04			
	119	23-24 Nov-04			
	156	25 Nov-04			
	198	15 Jun-04			
	201	04-05 Nov-04			
Koribundo	012	21 Jun-04	Norman	M. Fallon	Brima
	014	10-15 Mar-05	O. Vandy	D. Hoffman	Tarawally
	032	13-14 Sep-04	D. Kosia		
	140	14 Sep-04	D. Sheriff		
	157	16 Jun-04	W. Sheriff		
	159	09-10 Sep-04	B. Brima		
	162	08 Sep-04	J. Nunie		
Fengehun	007	02-03 Dec-04			
Moyamba	165	07 Mar-05	Norman		
	166	08 Mar-05	P.C. Kongomo		
	167	08 Mar-05	K. Torma		
	168	03-04 Mar-05			
	170	07 Mar-05			
	173	04 Mar-05			
	190	10 Feb-05			
Taiama	190	10 Feb-05			
Ribbi	014	10-15 Mar-05			
	068	17-18 Nov-04			

COUNTS 1 – 2: UNLAWFUL KILLINGS
(Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Bonthe-Base Zero	014	10-15 Mar-05	Norman	M.T. Collier	M.T. Collier
	017	19-22 Nov-04	M.T. Collier	A. Koroma	B. Tarawally
	080	06 Jun-05	O. Vandy	J. Konneh	J.K. Lewis
	086	08 Nov-04	A. Koroma	T. Jabbi	Y. Lewis
	096	08 Nov-04	M. Lumeh	B. Conteh	J. Murana
	108	30 May-05	J. Nunie	J. Lansana	A. Brima
	109	30 May-05	H. Collier	D. Hoffman	B. Jobai
	133	06 Jun-05	M. Kaineh		S. Sesay
	134	03 Jun-05			M. Bangura
	147	09-10 Nov-04			
	187	01 Jun-05			
	188	31 May-05			
	189	03 Jun-05			
Mobayeh	071	11-12 Nov-04			
Bonthe Town	116	09 Nov-04			
	147	09-10 Nov-04			

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COUNTS 3 – 4: PHYSICAL VIOLENCE AND MENTAL SUFFERING

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Tongo Fields	Para 26 (a)		Norman BJK Sei Siaka Lahai M. Kaineh L. Bockarie	D. Hoffman	
	015	11 Feb-05			
	022	11 Feb-05			
	144	24 Feb-05			
	Para 26 (b)				
	015	11 Feb-05			
	016	01 Mar-05			
	022	11 Feb-05			
	035	14 Feb-05			
	048	23 Feb-05			
	053	01 Mar-05			
	144	24 Feb-05			
Kenema	Para 26 (a)-(b)		Norman I.S. Koroma A. Koroma M. Kaineh M.B. Koroma B. Moriba F. Bindi L. Koroma M.K. Swarray	I.S. Koroma A. Koroma D. Hoffman	
	144	24 Feb-05			
	151	22 Sep-04			
Blama	Para 26 (a)-(b)		I.S. Koroma		
	041	24 Sep-04			
Kamboma	Para 26 (a)				
	015	11 Feb-05			
Bo	Para 26 (b)		Norman J. Nunie K. Koker M. Lumeh	M. Ngobeh K. Koker D. Hoffman	M. Bangura
	008	16 Nov-04			
	017	19-22 Nov-04			
	056	06-07 Dec-04			
	088	25-29 Nov-04			
	198	15 Jun-04			

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COUNTS 3 – 4: PHYSICAL VIOLENCE AND MENTAL SUFFERING (Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Koribundo	Para 26 (b)		Norman	M. Fallon	Brima
	012	21 Jun-04	O. Vandy	D. Hoffman	Tarawally
	014	10-15 Mar-05	D. Kosia		
	032	13-14 Sep-04	D. Sheriff		
	082	15 Sep-04	W. Sheriff		
	140	14 Sep-04	B. Brima		
	157	16 Jun-04	J. Nunie		
	159	09-10 Sep-04			
	162	08 Sep-04			
	176	17 Jun-04			
	190	10 Feb-05			
	198	15 Jun-04			
	201	05 Nov-04			
Moyamba	Para 26 (b)		Norman		
	008	16 Nov-04	P.C. Kongomo		
	080	06 Jun-05	K. Torma		
	165	07 Mar-05			
	166	08 Mar-05			
	168	03-04 Mar-05			
	170	07 Mar-05			
	173	04 Mar-05			
Bonthe-Base Zero	Para 26 (b)		Norman	M.T. Collier	M.T. Collier
	014	10-15 Mar-05	M.T. Collier	A. Koroma	B. Tarawally
	073	02 Mar-05	O. Vandy	J. Konneh	J.K. Lewis
	071	11-12 Nov-04	A. Koroma	T. Jabbi	Y. Lewis
	086	08 Nov-04	M. Lumeh	B. Conteh	J. Murana
	096	08 Nov-04	J. Nunie	J. Lansana	A. Brima
	116	09 Nov-04	H. Collier	D. Hoffman	B. Jobai
	201	05 Nov-04	M. Kaineh		S. Sesay
	147	09-10 Nov-04			M. Bangura

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COUNT 5: PILLAGE					
Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Tongo Fields	053 144	01 Mar-05 24 Feb-05	Norman BJK Sei Siaka Lahai Kamabotie M. Kaineh L. Bockarie	D. Hoffman	
Kenema District	022 033 053 068 144 151 152	11 Feb-05 20 Sep-04 01 Mar-05 18 Nov-04 24 Feb-05 22 Sep-04 28 Sep-04	Norman I.S. Koroma A. Koroma M. Kaineh M.B. Koroma B. Moriba F. Bindi L. Koroma M.K. Swarray	I.S. Koroma A. Koroma D. Hoffman	
Kenema Town	033 068 144 151 152	20 Sep-04 18 Nov-04 24 Feb-05 22 Sep-04 28 Sep-04	Norman I.S. Koroma A. Koroma M. Kaineh M.B. Koroma B. Moriba F. Bindi L. Koroma M.K. Swarray	I.S. Koroma A. Koroma D. Hoffman	

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COUNT 5: PILLAGE
(Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Bo District	001	14-15 Feb-05	Norman	M. Ngobeh	M. Bangura
	008	16 Nov-04	J. Nunie	K. Koker	
	014	10-15 Mar-05	K. Koker	D. Hoffman	
	017	19-22 Nov-04	M. Lumeh		
	022	11 Feb-05			
	030	25 Nov-04			
	032	13-14 Sep-04			
	056	06-07 Dec-04			
	057	29-30 Nov-04			
		08 Feb-05			
	067	02-07 Dec-04			
	082	15 Sep-04			
	119	23-24 Nov-04			
	140	14 Sep-04			
	156	25 Nov-04			
	159	09-10 Sep-04			
	162	08 Sep-04			
	190	10 Feb-05			
Bo Town	008	16 Nov-04	Norman	M. Ngobeh	M. Bangura
	014	10-15 Mar-05	J. Nunie	K. Koker	
	017	19-22 Nov-04	K. Koker	D. Hoffman	
	030	25 Nov-04	M. Lumeh		
	056	06-07 Dec-04			
	057	29-30 Nov-04			
		08 Feb-05			
	067	02-07 Dec-04			
	119	23-24 Nov-04			
	156	25 Nov-04			
Koribundo	032	13-14 Sep-04	Norman	M. Fallon	Brima
	082	15 Sep-04	O. Vandy	D. Hoffman	Tarawally
	140	14 Sep-04	D. Kosia		
	159	09-10 Sep-04	D. Sheriff		
	162	08 Sep-04	W. Sheriff		
			B. Brima		
			J. Nunie		

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COUNT 5: PILLAGE
(Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Moyamba	014	15 Mar-05	Norman		
	017	19-22 Nov-04	P.C. Kongomo		
	073	02 Mar-05	K. Torma		
	080	06 Jun-05			
	166	08 Mar-05			
	167	08 Mar-05			
	168	03-04 Mar-05			
	170	07 Mar-05			
Sembehun	014	15 Mar-05			
	073	02 Mar-05			
Gbagbantoke	096	08 Nov-04			
Bonthe-District	068	18 Nov-04	Norman	M.T. Collier	M.T. Collier
	071	11 Nov-04	M.T. Collier	A. Koroma	B. Tarawally
	096	08 Nov-04	O. Vandy	J. Konneh	J.K. Lewis
	116	09 Nov-04	A. Koroma	T. Jabbi	Y. Lewis
	147	09-10 Nov-04	M. Lumeh	B. Conteh	J. Murana
			J. Nunie	J. Lansana	A. Brima
Bonthe-Base Zero			H. Collier	D. Hoffman	B. Jobai
			M. Kaineh		S. Sesay
	068	18 Nov-04	Norman	M.T. Collier	M.T. Collier
	096	08 Nov-04	M.T. Collier	A. Koroma	B. Tarawally
			O. Vandy	J. Konneh	J.K. Lewis
			A. Koroma	T. Jabbi	Y. Lewis
			M. Lumeh	B. Conteh	J. Murana
			J. Nunie	J. Lansana	A. Brima
			H. Collier	D. Hoffman	B. Jobai
			M. Kaineh		S. Sesay
					M. Bangura

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COUNT 5: PILLAGE
(Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Bonthe Town	071	11 Nov-04	Norman	M.T. Collier	M.T. Collier
	147	09-10 Nov-04	M.T. Collier O. Vandy A. Koroma M. Lumeh J. Nunie H. Collier M. Kaineh	A. Koroma J. Konneh T. Jabbi B. Conteh J. Lansana D. Hoffman	B. Tarawally J.K. Lewis Y. Lewis J. Murana A. Brima B. Jobai S. Sesay M. Bangura

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COUNT 6: ACTS OF TERRORISM

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Tongo Fields	022	11 Feb-05	Norman	D. Hoffman	
	027	18 Feb-05	BJK Sei		
	047	22 Feb-05	Siaka Lahai		
			Kamabotie		
Kenema District			M. Kaineh		
			L. Bockarie		
	022	11 Feb-05	Norman	I.S. Koroma	
	033	20 Sep-04	I.S. Koroma	A. Koroma	
	079	26 May-05	A. Koroma	D. Hoffman	
	223	28-30 Sep-04	M. Kaineh		
			M.B. Koroma		
			B. Moriba		
			F. Bindi		
			L. Koroma		
			M.K. Swarray		
Bo District	001	14-15 Feb-05	Norman	M. Ngobeh	M. Bangura
	014	10-15 Mar-05	J. Nunie	K. Koker	
	017	19-22 Nov-04	K. Koker	D. Hoffman	
	056	06-07 Dec-04	M. Lumeh		
	057	29-30 Nov-04			
		08 Feb-05			
	067	02-07 Dec-04			
	119	23-24 Nov-04			
	156	25 Nov-04			
	159	09-10 Sep-04			
	162	08 Sep-04			
Koribundo	012	21 Jun-04	Norman	M. Fallon	Brima Tarawally
	082	15 Sep-04	O. Vandy	D. Hoffman	
	159	09-10 Sep-04	D. Kosia		
	162	08 Sep-04	D. Sheriff		
			W. Sheriff		
			B. Brima		
			J. Nunie		

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COUNT 6: ACTS OF TERRORISM
(Continued)

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Moyamba	014	15 Mar-05	Norman		
	073	02 Mar-05	P.C. Kongomo		
	080	06 Jun-05	K. Torma		
	166	08 Mar-05			
	167	08 Mar-05			
	168	03-04 Mar-05			
	170	07 Mar-05			
Bonthe-District	068	18 Nov-04	Norman	M.T. Collier	M.T. Collier
	071	11 Nov-04	M.T. Collier	A. Koroma	B. Tarawally
	096	08 Nov-04	O. Vandy	J. Konneh	J.K. Lewis
	116	09 Nov-04	A. Koroma	T. Jabbi	Y. Lewis
	134	03 Jun-05	M. Lumeh	B. Conteh	J. Murana
	147	09-10 Nov-04	J. Nunie	J. Lansana	A. Brima
	187	02 Jun-05	H. Collier	D. Hoffman	B. Jobai
			M. Kaineh		S. Sesay
					M. Bangura

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COUNT 7: COLLECTIVE PUNISHMENT

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Tongo Fields	022	11 Feb-05	Norman	D. Hoffman	
	027	18 Feb-05	BJK Sei		
	047	22 Feb-05	Siaka Lahai Kamabotie M. Kaineh L. Bockarie		
Kenema District	033	20 Sep-04	Norman	I.S. Koroma	
	079	26 May-05	I.S. Koroma A. Koroma M. Kaineh M.B. Koroma B. Moriba F. Biondi L. Koroma M.K. Swarray	A. Koroma D. Hoffman	
Bo District	001	14-15 Feb-05	Norman	M. Ngobeh	M. Bangura
	056	06-07 Dec-04	J. Nunie	K. Koker	
	057	29-30 Nov-04	K. Koker	D. Hoffman	
		08 Feb-05	M. Lumeh		
	067	02-07 Dec-04			
	119	23-24 Nov-04			
	156	25 Nov-04			
	159	09-10 Sep-04			
	162	08 Sep-04			
Koribundo	012	21 Jun-04	Norman	M. Fallon	Brima Tarawally
	082	15 Sep-04	O. Vandy	D. Hoffman	
	159	09-10 Sep-04	D. Kosia		
	162	08 Sep-04	D. Sheriff W. Sheriff B. Brima J. Nunie		

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**COUNT 7: COLLECTIVE PUNISHMENT
(Continued)**

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Bonthe-District	068	18 Nov-04	Norman	M.T. Collier	M.T. Collier
	096	08 Nov-04	M.T. Collier	A. Koroma	B. Tarawally
	134	03 Jun-05	O. Vandy	J. Konneh	J.K. Lewis
	147	09-10 Nov-04	A. Koroma	T. Jabbi	Y. Lewis
	187	02 Jun-05	M. Lumeh	B. Conteh	J. Murana
			J. Nunie	J. Lansana	A. Brima
			H. Collier	D. Hoffman	B. Jobai
			M. Kaineh		S. Sesay
					M. Bangura

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COUNT 8: USE OF CHILD SOLDIERS

Crime Base	Prosecution Witness		Defence Witness		
	Witness #	Date of Testimony	Norman	Fofana	Kondewa
Koribundo	032 140	13 Sep-04 04 Sep-04	Norman O. Vandy D. Kosia D. Sheriff W. Sheriff B. Brima J. Nunie	M. Fallon D. Hoffman	Brima Tarawally
Bonthe-District	004 005 014 017 080 201 218	09 Nov-04 15 Feb-05 11 Mar-05 19 Nov-04 06 Jun-05 05 Nov-04 06 Jun-05	Norman M.T. Collier O. Vandy A. Koroma M. Lumeh J. Nunie H. Collier M. Kaineh	M.T. Collier A. Koroma J. Konneh T. Jabbi B. Conteh J. Lansana D. Hoffman	M.T. Collier B. Tarawally J.K. Lewis Y. Lewis J. Murana A. Brima B. Jobai S. Sesay M. Bangura
Kenema	021	02-04 Nov-04	Norman I.S. Koroma A. Koroma M. Kaineh M.B. Koroma B. Moriba F. Bindi L. Koroma M.K. Swarray	I.S. Koroma A. Koroma D. Hoffman	
Expert	EW2	16 Jun-05		D. Hoffman	