

Accused's own evidence, he was so unwell during the Junta period that he was in and out of hospital, could not perform his role as PLO2, had to be accompanied on one of his trips to Kono with a medical orderly and was too unwell to fight at the Intervention.<sup>1679</sup>

1154. If the First Accused was as unwell as alleged in his evidence, it is the case of the Prosecution that he would not have been able to survive the treatment and hardship which he had to endure from the start of his first alibi until his escape at Goba Water.

1155. In essence, from Kono the First Accused was captured and forced to march three days to Moa Barracks; in Kailahun he was stripped, beaten, threatened to be shot, interrogated, and kept in a dungeon for weeks on end in constant fear of being shot. During his "escape" from Kailahun he had to march for about three days; he then stayed in Yarya for around three months before being marched for approx 10 to 12 days to Colonel Eddie Town.

1156. At Colonel Eddie Town he was put out in the sun by George Johnson and maltreated. The First Accused underwent all this physical maltreatment and mental strain for almost 10 months with no evidence of medical treatment, yet was still well enough to have made an escape at Goba Water en route to Freetown and arrive safely and apparently well in Makeni. There is no evidence to suggest that he was unwell when he arrived in Makeni.

1157. The Prosecution submits that the truth of the matter is that the First Accused did not suffer from any major ill health throughout the period of the Indictment and that his alibis are unbelievable when faced with overwhelming reliable Prosecution evidence to the contrary.

1158. The First Accused is lying about his alibis, for which there has been hardly any witness support, just as he has lied throughout other large parts of his evidence.

*The First Accused's fourth alibi (escape from Goba Water and onwards)*

1159. The First Accused's fourth alibi is that before the Invasion of Freetown in January 1999, he escaped with the Third Accused and Woyoh from Goba Water and travelled with the

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<sup>1679</sup> Accused Alex Tamba Brima, Transcript, 6 June 2006, pp. 57-59 and Transcript 6 June 2006, pp. 59-60 and Transcript, 8 June 2006, pp. 23-24.

Third Accused to Makeni, where he remained with his family until the SLA faction had been driven out of Freetown towards the end of January 1999.

*Prosecution's position*

1160. The fourth alibi of the First Accused's absence from Freetown during the Invasion is not supported by a single witness, either Prosecution or Defence. No alibi witness has been produced in respect of this fourth alibi.
1161. On the contrary, it was not supported by the Third Accused who the Trial Chamber found through his Defence attorneys, "has stated that he does not intend to rely of that particular piece of evidence"<sup>1680</sup> (i.e. that the Third Accused was present in another place during the January 1999 Freetown invasion). Not even a single family member who the First Accused allegedly stayed with in Makeni gave evidence in support of the First Accused's alibi.
1162. As for the First Accused alleging that he escaped with Woyoh, this was clearly a lie by the Accused who when remembering that Woyoh was a part of the Freetown invasion, immediately sought to distance himself from saying Woyoh by alleging that only the Third Accused accompanied him the whole way to Makeni and stayed with him and his family.
1163. There is no doubt that Woyoh took part in the Invasion of Freetown and indeed was killed there. There is evidence from both the Prosecution witnesses and Defence witnesses on this point.<sup>1681</sup> Furthermore it would not make sense for Woyoh to escape at Goba Water and then return to take part in the invasion of Freetown. What was the need for him to escape?
1164. It is a classic example of the First Accused being caught in his own web of lies which he had spun during nearly three weeks of evidence-in-chief, followed by another week in cross-examination. After a while it became impossible for the Accused to remember what lies he had told earlier in his evidence.

<sup>1680</sup> *Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-16-T-521, "Decision on Prosecution Motion for Relief in Respect of Violations of Rule 67", 26 July 2006, para. 26

<sup>1681</sup> TF1-334, Transcript, 14 June 2005, pp. 4-6 and Transcript 16 June 2005, p. 99; DSK-113, Transcript, 12 October 2006, pp. 118-119; DSK-103, Transcript, 12 October 2006, p. 108; DBK-005, Transcript, 5 October 2006, p. 58.; DBK-131, Transcript, 26 October 2006, p. 54

1165. Another example is according to his early evidence, he and the other Accused were never honourables, yet (later in his evidence) according to him, he joined the other honourables under arrest at Colonel Eddie Town i.e. the Second and Third Accused along with Woyoh and Abdul Sesay.<sup>1682</sup> By implication he therefore accepts that all the Accused were honourables.
1166. It is also significant that during cross-examination of Prosecution witnesses not a single Defence lawyer suggested that the First Accused escaped at Goba Water, nor was it ever suggested that the First Accused was not present in Freetown at the time of the Invasion because he was elsewhere.
1167. This defence of alibi for the Freetown invasion is not mentioned in the First Accused's Pre-trial Brief despite him inadequately alluding to alibis for other areas. It is clear that the idea of pleading alibi for Freetown only occurred to the Accused after the Prosecution case was closed and all the Prosecution evidence had been heard.
1168. This defence of alibi for Freetown by the First Accused has been used by him as a last ditch desperate attempt to avoid liability for the atrocities committed in Freetown in the face of overwhelming Prosecution evidence that the First Accused was present in Freetown and was in command of the troops during the Freetown Invasion.
1169. In the face of reliable identification evidence from Prosecution witnesses, who had known the First Accused from before the conflict and in one case, grew up with him and who have not been discredited during cross-examination, there can be no doubt that the First Accused was present during the Freetown Invasion.
1170. The Prosecution submits that the only inference that can be drawn from the First Accused claiming not to be in Freetown is that he was in command of the SLA faction in Freetown and was responsible for the atrocities as charged in the Indictment either personally or through soldiers under his command.
1171. This completely unsupported Freetown alibi is a desperate attempt to avoid liability on his part for the atrocities committed in Freetown.

*The First Accused's evidence in relation to, and in support of, his fourth alibi*

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<sup>1682</sup> Accused Alex Tamba Brima, Transcript, 5 July 2006, p. 34

1172. None of the Defence witnesses support the First Accused's alibi that he was elsewhere when the crimes were committed. Instead, they simply say that they did not see the First Accused in Freetown or that he was not there. Crucially, none of them say where he actually was or who he was with at the time of the Freetown Invasion or indeed say they were with him. As such, the First Accused's defence for Freetown is not one of alibi (as no witnesses have supported it), but rather an assertion the Prosecution cannot prove he was there.
1173. The issue is therefore whether the Prosecution witnesses are to be believed over the Defence witnesses on whether the Accused was present or not in Freetown during the Invasion in January 1999.
1174. In respect of the question of identification of the Accused at Freetown during the January 1999 Invasion and the reliability of Prosecution witnesses over Defence witnesses, please refer to section *XIX. Crimes During the Invasion, Occupation and Retreat From Freetown* and section *IV. Defences* (in particular mistaken identity).
1175. The key to showing that both the First Accused and his Defence witnesses, who claim the First Accused was under arrest from Colonel Eddie Town to Freetown, are lying can best be shown by the fact that in their respective evidence they either contradict each other or the First Accused himself in material aspects of the First Accused's evidence. If the First Accused and his witnesses were all telling the truth then there should be little if any contradictions over key elements of their testimony.
1176. Some specific examples of material contradictions between the First Accused's own evidence and Defence witnesses many of whom do not support the First Accused in respect of certain significant parts of his evidence and show that the First Accused is lying are set out below.
1177. The First Accused gave evidence that he was severely unwell during the Junta period and was too unwell to fight after the Intervention. No witness in this trial (either Defence or Prosecution has suggested that the First Accused was too unwell to perform his duties as a PLO or to fight).

1178. DAB-085 (Edward Sheku Koroma) was a crime-base witness for Fadugu in Koinadugu.

According to the evidence of the First Accused, none of the Accused took part in the overthrow of Kabbah's Government. DAB-085 gave contradictory evidence that whilst he was in Freetown in 1997 he heard that all of the Accused were a part of the AFRC Coup.<sup>1683</sup>

1179. DAB-079 (Abu Bakr Barrie) was a crime-base witness for Kabala and Koinadugu. The First Accused gave evidence that neither he nor the Third Accused were coup makers and that neither of them were involved in the Freetown Invasion of 1999. DAB-079 gave evidence to the contrary. He stated that the First Accused, referring to him as Gullit, was a coup maker, and that both Gullit and Five-Five (the Third Accused) were part of the Freetown Invasion.<sup>1684</sup>

1180. This witness (DAB-079) was a CDF intelligence officer, who ought to have information about the conflict, was largely unchallenged in his evidence by the Prosecution and the Prosecution submits that this witness who had no reason to lie ought to be given weight by the Trial Chamber.

1181. DAB-025 (Peter Gbassimo) was a crime-base witness for Yengema in Kono. The evidence of the First Accused was that he was a lowly corporal and due to his rank was not in a command position. This is contradicted by DAB-025 who gave evidence that Alex Tamba Brima, Ibrahim Bazy Kamara and Five-Five were all big men in the military.<sup>1685</sup>

1182. DAB-023 (Aliah Jacob Mansaray) was a former SLA insider. According to the First Accused it was FAT Sesay who handed over the muster parade at Colonel Eddie Town to SAJ Musa. The evidence of DAB-023, however, is that George Johnson handed over the muster parade.<sup>1686</sup> The Prosecution submits that this is a too significant event for the First Accused and DAB-023 to differ on.

1183. DAB-023 also refers to Honourable Bazy in his evidence whereas the First Accused in his own evidence denies that Bazy was an honourable. The First Accused claims that TF1-184 was SAJ Musa's cook whilst DAB-023 gives evidence that TF1-184 was one of

<sup>1683</sup> DAB-085, Transcript, 20 July 2006, p.52

<sup>1684</sup> DAB-079, Transcript, 28 July 2006, p. 62, 68-69.

<sup>1685</sup> DAB-025, Transcript, 28 July 2006, p. 112

<sup>1686</sup> DAB-023, Transcript, 31 July 2006, p. 63

SAJ Musa's bodyguards. Furthermore DAB-023 does not seem to mention when he last saw the Accused under arrest.

1184. It is the case of the Prosecution that DAB-023 has lied throughout his entire testimony. This is no better illustrated than when he was confronted with his statement, which for Kono dealt almost entirely with being under the command of Col. Rambo with no mention of Savage, yet in his evidence before the Court he made little if any mention of RUF Rambo in Kono and instead almost entirely based his evidence around Savage and Tombodu Town.<sup>1687</sup>
1185. DAB-023 also claims that SLA Jackie Pallo was with him in Kono in 1997/1998,<sup>1688</sup> which is contradicted by the more reliable Defence witness DAB-063 (see below) who gave evidence that SLA Jackie Pallo was killed in around 1994/1995.<sup>1689</sup>
1186. DAB-023 is present at Goba Water but does not mention any escape by any of the Accused. According to DAB-023, Commander 0-Five led the attack on Freetown after SAJ Musa's death. This contradicts numerous other Defence witnesses who say that it was FAT Sesay who led the attack on Freetown. The case of the Prosecution is that DAB-023's testimony is based on lies and should be rejected in its entirety.
1187. DAB-063 (Kamara Ibrahim Musa) An SLA insider based in Kenema and Kailahun did not support the First Accused in large parts of his evidence. Despite spending a reasonable period of time in Kailahun after the Intervention, he did not mention either seeing or hearing about the First Accused. He heard that all the Accused took part in the overthrow of the Kabbah Government and were referred to as honourables; he heard that the Third Accused was an Honourable and that the First and Second Accused were members of the Supreme Council and knew that the First Accused was also known as Gullit.<sup>1690</sup>
1188. Witness DAB-063 was a body guard for Johnny Paul Koroma throughout the period of the Intervention and would know who were honourables, who were members of the Supreme Council and part of the AFRC Government. This witness was not challenged in respects of these parts of his evidence by either the Defence or Prosecution. He is a

<sup>1687</sup> DAB-023, Transcript, 3 August 2006, pp. 60-62

<sup>1688</sup> DAB-023, Transcript, 31 July 2006, p. 30

<sup>1689</sup> DAB-063, Transcript, 2 August 2006, p. 67

<sup>1690</sup> DAB-063 Transcript, 2 August 2006, p. 60, 61-62

witness who exposes the First Accused as a liar and according to the Prosecution the Chamber should give weight to his evidence.

1189. DAB-039 (Tamba Fillie), a Defence crime-base witness from Kono refers to Alex Tamba Brima being in Kono - a name and nickname the First Accused denied in his evidence.<sup>1691</sup>

1190. DAB-018 (Mohammed Jabbie) a former SLA insider stated that Honourable Adams was in Kailahun and was being tortured. However, according to the First Accused Adams is one of the honourables who is under arrest with the First and the other Accused at Colonel Eddie Town.<sup>1692</sup>

1191. DAB-018's description of life in Kailahun also contradicts that of the First Accused. According to the First Accused, he and other SLAs were under detention and were not treated well by the RUF. According to DAB-018, the SLAs had freedom of movement in Buedu because Mosquito loved them and even allowed them to lodge at his own house.<sup>1693</sup>

1192. DAB-018 is not a part of the advance on Freetown so he is not in position to comment upon what actually happened in Freetown.

1193. DAB-131 (Moses Rogers) who is a crime-base witness for Kono stated that prior to the Intervention the First Accused was based in Masingbi Road with his troops in around January and February 1998. This witness also testified that the First Accused was PLO 2 and that it was no secret that the First Accused was a big man.<sup>1694</sup>

1194. This evidence entirely contradicts the First Accused's own evidence in respect of Kono prior to the Intervention. According to the First Accused, he only made three short trips to Kono before the Intervention in respect of his biological mother, marriage and health reasons.<sup>1695</sup> According to the First Accused, he was not based there for long periods and certainly not as a commander or a big man. Once again the First Accused's own evidence is contradicted by his own witnesses.

<sup>1691</sup> DAB-018, Transcript, 7 September 2006, p. 67

<sup>1692</sup> DAB-018, Transcript 7 September 2006, p. 28.

<sup>1693</sup> DAB-018, Transcript 7 September 2006, p. 29.

<sup>1694</sup> DAB-131, Transcript, 13 September 2006, p. 79

<sup>1695</sup> Accused Alex Tamba Brima, Transcript, 8 June 2006, p. 20 and Transcript, 3 July 2006, p. 88 and Transcript, 8 August 2006, pp. 21-22.

1195. DAB-042 was a crime-base witness for Kono who gave evidence that the Third Accused, prior to the Intervention, came regularly to Koidu and addressed dignitaries at Koidu Town Hall.<sup>1696</sup> This witness also gave evidence that the Third Accused was regarded as a big man who came with guards to Koidu town.<sup>1697</sup> This clearly contradicts the First Accused's own evidence of all three Accused holding lowly insignificant positions during the period of the AFRC Government.

1196. If the Third Accused was a lowly 'other ranks' soldier after the Coup, with no power or authority, on what basis could he address meetings of the local dignitaries in Koidu Town including the Mammy Queen and be regarded as a big man. It is clear from the Defence's own witnesses that all the Accused held important positions of authority throughout the period of the AFRC Government.

1197. DAB-096 (Mucter Rogers) confirms that TF1-184 was SAJ Musa's Chief Security Officer. This witness allegedly attended the First Accused's wedding in Kono on the invitation of DAB-095, but DAB-095 in his own evidence denies being at this wedding.<sup>1698</sup> DAB-096 in his evidence states that he last saw the Accused at Waterloo,<sup>1699</sup> which fails to corroborate the First Accused story that he escaped at Goba Water just after Benguema.<sup>1700</sup>

1198. This witness was not an SLA and was for no apparent reason following the troop. He remained unarmed and with the families despite the SLA being short of manpower. The Prosecution submits that this witness is lying about the three Accused being under arrest from Colonel Eddie Town until he last saw them at Waterloo<sup>1701</sup> and that his evidence should be rejected so far as it relates to the advance from Colonel Eddie Town to Freetown.

1199. DAB-095 (Tamba Fasuluka, aka Rhino) - The Prosecution submits that this witness's evidence can be rejected in its entirety without even reference to the First Accused's own evidence. Quite incredibly, after the Intervention his evidence is that he did not know who

<sup>1696</sup> DAB-042, Transcript, 15 September 2006, p. 96

<sup>1697</sup> DAB-042, Transcript, 15 September 2006, p. 96

<sup>1698</sup> DAB-095, Transcript, 28 September 2006, p. 47

<sup>1699</sup> DAB-095, Transcript, 28 September 2006, p. 64, 75

<sup>1700</sup> Accused Alex Tamba Brima, Transcript, 15 June 2006, pp. 27-28

<sup>1701</sup> DAB-096, Transcript, 25 September 2006, pp. 9-10



SAJ Musa was. He only knew him as a soldier who had a rank.<sup>1702</sup> For someone who was based in State House from the Coup until the Intervention this statement is not believable.<sup>1703</sup>

1200. According to witness DAB-095 Commander 0-Five, Eddie and George Johnson were the advance team which SAJ sent ahead.<sup>1704</sup> This entirely contradicts the First Accused who said that Commander 0-Five arrested him and took him to Colonel Eddie Town where FAT Sesay was in command. According to DAB-095, FAT Sesay travelled with SAJ Musa to Colonel Eddie Town and he carried FAT Sesay's bag.<sup>1705</sup>

1201. Again for a person who has never met the prisoners before, he gives no reason why he would go along to see them. His description of the detainees being in a house with iron bars on the window<sup>1706</sup> is also at variance with other witnesses who allegedly saw the Accused in jail at Colonel Eddie Town.

1202. Once more, according to DAB-095, he left the detainees at Waterloo<sup>1707</sup> when he went to Benguema and never saw them again which totally contradicts the First Accused's evidence of being at Benguema when SAJ Musa died.

1203. According to DAB-095's evidence Colonel Eddie led the advance into Freetown. This witness was carried in a stretcher to Freetown so he was not even in a position to see what was going on at State House. It is the case of the Prosecution that the evidence of this witness can be rejected in its entirety at least in the areas where it relates to the post-Intervention period in Kono and the testimony that the Accused were under arrest from Colonel Eddie Town and did not play a role in the Freetown invasion on the basis that a large part of DAB-095's evidence is founded on lies.

1204. DAB-033 (Mohammed Majid Tarawallie, aka Goldteeth) again contradicted both the First Accused's and other Defence witnesses' evidence in material respects. For instance, according to DAB-033, FAT Sesay led the advance party,<sup>1708</sup> yet according to DAB-095

<sup>1702</sup> DAB-095, Transcript, 20 September 2006, p. 26

<sup>1703</sup> DAB-095, Transcript, 20 September 2006, p. 16

<sup>1704</sup> DAB-095, Transcript, 20 September 2006, pp. 56-58

<sup>1705</sup> DAB-095, Transcript, 28 September 2006, pp. 41-42

<sup>1706</sup> DAB-095, Transcript, 20 September 2006, pp. 61-62

<sup>1707</sup> DAB-095, Transcript, 28 September 2006, pp. 64, 75

<sup>1708</sup> DAB-033, Transcript, 25 September 2006, pp. 55-56

Commander 0-Five led the advance party. According to DAB-033, there were three parties i.e. FAT Sesay's, Commander 0-Five's, and SAJ Musa's, yet no other witness gives evidence to this effect.<sup>1709</sup>

1205. He also mentioned that SAJ Musa received a radio call en route to Colonel Eddie Town from George Johnson saying that he (George Johnson) has arrested the AFRC honourables such as the Accused.<sup>1710</sup> The First Accused denied that he and the other Accused's were ever honourables. DAB-033 also gives evidence that the detainees escaped at Benguema,<sup>1711</sup> yet according to the First Accused's own evidence he and the Third Accused did not escape until after Benguema, at Goba Water.

1206. DAB-033 also lied under oath at least four times when he said that he did not see the detainees again after Benguema until he finally admitted, when confronted by the Defence for the Second Accused, that he saw them later at Makeni.<sup>1712</sup>

1207. It is the case of the Prosecution that the evidence of witness DAB-033 can be rejected in its entirety at least in the areas where it relates to the post-Intervention period in Kono and the parts about the Accused being under arrest from Colonel Eddie Town and not playing a role in the Freetown invasion on the basis that a large part of DAB-033's evidence is founded on lies.

1208. DBK-005 (Alusine Kamara, aka Van Dam) was a former SLA who again contradicts the First Accused's evidence. According to DBK-005 the Accused were all honourables with securities and as such were important men.<sup>1713</sup> According to DBK-005, all of the Accused were also members of the AFRC Government Supreme Council prior to the Intervention.<sup>1714</sup> According to the First Accused he was neither an honourable, nor a member of the AFRC Supreme Council and was not an important person prior to the Intervention.

1209. It is the case of the Prosecution that it has proved through its witnesses that from Bombali to Camp Rosos the First Accused was in command of the troop, which under his orders

<sup>1709</sup> DAB-033, Transcript, 25 September 2006, pp. 55-57

<sup>1710</sup> DAB-033, Transcript, 25 September 2006, p. 59

<sup>1711</sup> DAB-033, Transcript, 25 September 2006, p. 68

<sup>1712</sup> DAB-033, Transcript, 2 October 2006, pp. 35-36

<sup>1713</sup> DBK-005, Transcript, 12 October 2006, pp. 17-18

<sup>1714</sup> DBK-005, Transcript, 12 October 2006, pp. 18-19

committed numerous atrocities in villages throughout the Bombali District as set out in this Indictment including, in particular, Karina, the birth place of President Kabbah.

1210. It is the case of the Prosecution that all of the First Accused's alleged alibis should be rejected in their entirety as lies.

## **XV. CRIMES IN KONO FROM 14 FEBRUARY UNTIL 30 JUNE 1998**

### **EVIDENCE OF AFRC AND RUF WORKING TOGETHER IN KONO DISTRICT BETWEEN MID FEBRUARY AND MAY 1998**

1211. Though it is not explicitly stated by the Defence, it can be presumed that a component of the Defence case is that the Accused, specifically the Second and Third Accused, were not present in Kono District during the relevant period of the Indictment.
1212. Even if this premise of the Defence were to be believed, it is the Prosecutions position that, even if the Accused were absent from Kono District during the relevant periods of the Indictment, all the Accused would not be absolved from liability under the theory of joint criminal enterprise.
1213. It is the Prosecution's position that the Accused, specifically the Second Accused, and for short periods the Third Accused, were present in Kono District during the relevant periods of the Indictment and responsible for the allegations charged there in.
1214. The Prosecution accepts that the First Accused left Kono for Kailahun around the time of the Intervention and returned to Kono in around the end of April or beginning of May at the latest, but that through his working with the RUF in Kailahun, as evidenced by him bringing logistics to the joint SLA/RUF forced based in Kono,<sup>1715</sup> he still has liability under the theory of JCE.

#### Prosecution and Defence evidence

1215. Johnny Paul Koroma ordered that Sewafe should be burned because it was a suspected Kamajor stronghold. Sewafe is in Kono District about 22-23 miles from Koidu.<sup>1716</sup> The Sierra Leone Army and the Revolutionary United Front did the burning. The senior commanders were present.<sup>1717</sup>

<sup>1715</sup> TF1-334, Transcript 20 May 2005, p. 44, 50-51.

<sup>1716</sup> TF1-334, Transcript 17 May 2005, p. 93

<sup>1717</sup> TF1-334, Transcript 17 May 2005, p. 94

1216. At Bumpe, TF1-334 saw Issa Sesay, SAJ Musa and Johnny Paul Koroma. Johnny Paul Koroma was in command. When he left, Issa Sesay was the village commander.<sup>1718</sup> Issa Sesay said that everyone should advance to capture Koidu Town. TF1-334 was in the fighting force that moved to Koidu Town. Those involved, included Hassan Papah Bangura, Col. Komba Gbundema of the Revolutionary United Front, Superman and other members of the Sierra Leone Army.<sup>1719</sup> When Koidu Town was captured, Superman was the overall commander at that time.<sup>1720</sup>
1217. On their way to Kono, the troops fought against the Kamajors and gained control of Koidu. The troops were led by Superman.<sup>1721</sup> Superman was in complete control of Kono and the Second Accused was his second in command (2IC).<sup>1722</sup>
1218. While in Koidu Town, the Second Accused's securities were in charge of collecting arms and ammunition and bringing it back to Superman. At this time, the Second Accused was the head of G4 and second in command to Superman.<sup>1723</sup>
1219. During this time period, Mosquito was based in Kailahun.<sup>1724</sup> Mosquito stated that he was sending ammunition for the RUF and SLA in Kono and that both the SLA and RUF should clear Koidu Geiya so that they could be received.<sup>1725</sup> Mosquito had also stated that both the RUF and SLA should completely breakdown Sewafe Bridge so that ECOMOG forces shouldn't have a way to enter Koidu. This happened around May 1998.<sup>1726</sup>
1220. While in Kono, TF1-334 knew about the RUF and SLA working together.<sup>1727</sup> There had been a cordial relationship between the RUF and SLA. If there were operations, they were joint operations and the command structure was clear to everyone.<sup>1728</sup>
1221. There were various battalions assigned to various villages in Kono. TF1-334 and Hassan Papah Bangura would go on patrols to the areas where the commanders were based.<sup>1729</sup>

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<sup>1718</sup> TF1-334, Transcript 17 May 2005, pp. 99-100

<sup>1719</sup> TF1-334, Transcript 17 May 2005, p. 101

<sup>1720</sup> TF1-334, Transcript 17 May 2005, p. 102

<sup>1721</sup> TF1-167, Transcript 15 September 2005, p. 32

<sup>1722</sup> TF1-167, Transcript 15 September 2005, p. 32

<sup>1723</sup> TF1-167, Transcript 15 September 2005, p. 43

<sup>1724</sup> TF1-334, Transcript 18 May 2005, p. 25

<sup>1725</sup> TF1-334, Transcript 18 May 2005, p. 29

<sup>1726</sup> TF1-334, Transcript 18 May 2005, pp. 33-34

<sup>1727</sup> TF1-334, Transcript 19 May 2005, p. 6

<sup>1728</sup> TF1-334, Transcript 19 May 2005, p. 30

1222. SLA Capt. Junior, the Chief Security Officer to Col. Foday Kallay, alias Command One, was deployed to Jagbwema Fiamsa.<sup>1730</sup> He had SLAs and RUF under his command. The numbers were not stable, depending on a particular attack.<sup>1731</sup>
1223. SLA Col. Mohamed Savage was the battalion commander in Tombodu.<sup>1732</sup> He had 80 men, mixed RUF and SLA, but mostly SLA. His deputy was Staff Alhaji, who was a Staff Sgt. in the SLA. Mohammed Savage recommended Staff Alhaji for promotion to lieutenant. The Second Accused promoted Mohamed Savage from corporal to lieutenant.<sup>1733</sup>
1224. SLA Lt. Kallay, was the battalion commander at Bumpe. He had 70 men.<sup>1734</sup> Most were SLAs, but he did have some RUFs. He was subordinate to the operations commander.<sup>1735</sup> The Second Accused promoted Lt. Kallay from 'other ranks' to lieutenant.<sup>1736</sup>
1225. Lt. Mosquito (SLA) was the battalion commander for Sewafe. He had 70 men.<sup>1737</sup> Most were SLAs but he did have some RUFs. The Second Accused promoted Lt. Mosquito from 'other ranks' to lieutenant.<sup>1738</sup>
1226. SLA Lt. Tito was the battalion commander in Yengema. He was an SLA and freed from prison at the time of the Coup. He had 60 men, mostly SLA with some RUF.<sup>1739</sup> The Second Accused promoted Tito to lieutenant.<sup>1740</sup>
1227. Lt. Abu Bakarr Kamara was the battalion commander at Woama. He was an SLA. He had 60 men. Most were SLA but he had some RUF as well. The Second Accused promoted Lt. Bakarr from 'other ranks' to lieutenant.<sup>1741</sup>
1228. The SLAs based at the headquarters at Masingbi Road included the Second Accused,<sup>1742</sup> Hassan Papah Bangura, George Johnson and Junior Sheriff.<sup>1743</sup>

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<sup>1729</sup> TF1-334, Transcript 19 May 2005, p. 16

<sup>1730</sup> TF1-334, Transcript 19 May 2005, p. 16

<sup>1731</sup> TF1-334, Transcript 19 May 2005, p. 18

<sup>1732</sup> TF1-334, Transcript 19 May 2005, p. 21

<sup>1733</sup> TF1-334, Transcript 19 May 2005, p. 50

<sup>1734</sup> TF1-334, Transcript 19 May 2005, p. 23

<sup>1735</sup> TF1-334, Transcript 19 May 2005, p. 24

<sup>1736</sup> TF1-334, Transcript 19 May 2005, p. 50

<sup>1737</sup> TF1-334, Transcript 19 May 2005, p. 24

<sup>1738</sup> TF1-334, Transcript 19 May 2005, p. 51

<sup>1739</sup> TF1-334, Transcript 19 May 2005, p. 25

<sup>1740</sup> TF1-334, Transcript 19 May 2005, p. 50

<sup>1741</sup> TF1-334, Transcript 19 May 2005, p. 51

1229. Komba Gbundema was deployed at Yamandu.<sup>1744</sup> He was subordinate to Superman.<sup>1745</sup> He had mostly RUF troops, but had some SLAs, including Ector Bob Lahai.<sup>1746</sup>
1230. RUF Rambo was Lt. Col. and subordinate to Superman. When Superman became director of operations for the SLA and RUF, RUF Rambo became the acting operations commander for the RUF.<sup>1747</sup>
1231. The burning in Tombodu was organized; it was a joint RUF and SLA force.<sup>1748</sup>
1232. After the Koidu Geiya operation, TF1-334 returned to Koidu Town and saw the Second Accused and the troops under his command burning Masingbi Road.<sup>1749</sup> During the Koidu Geiya operation, Mosquito called and said that he would send troops, both SLA and RUF and they should capture the town and take the money to Kailahun.<sup>1750</sup>
1233. TF1-334, along with Col. Mongor (RUF military commander), the Second Accused (SLA commander), Hassan Papah Bangura (Operations commander) and other SLA and RUF broke Sewafe Bridge, pursuant to Mosquito's orders.<sup>1751</sup>
1234. When DAB-095 went to Koidu Town, they had met the RUF and soldiers there. The group that went ahead had already captured Koidu Town and the capture had been achieved by a joint force of SLA/RUF.<sup>1752</sup> This evidence supports the Prosecution case.
1235. During the two months that DAB-095 was in Koidu Town, he did not see George Johnson, aka Junior Lion, nor SLA Hassan Papah Bangura, aka Bomblast.<sup>1753</sup> This is either a lie, as a number of Defence witnesses speak of seeing George Johnson in Koidu Town especially at Masingbi Road or it may be that the witness did not go to Masingbi Road or the areas where George Johnson was present.

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<sup>1742</sup> TF1-334, Transcript 19 May 2005, p. 26

<sup>1743</sup> TF1-334, Transcript 19 May 2005, p. 27

<sup>1744</sup> TF1-334, Transcript 19 May 2005, p. 32

<sup>1745</sup> TF1-334, Transcript 19 May 2005, p. 33

<sup>1746</sup> TF1-334, Transcript 19 May 2005, p. 35

<sup>1747</sup> TF1-334, Transcript 19 May 2005, p. 34

<sup>1748</sup> TF1-334, Transcript 20 May 2005, p. 16

<sup>1749</sup> TF1-334, Transcript 20 May 2005, p. 31

<sup>1750</sup> TF1-334, Transcript 20 May 2005, p. 49

<sup>1751</sup> TF1-334, Transcript 20 May 2005, p. 51

<sup>1752</sup> DAB-095, Transcript 28 September 2006, p. 21

<sup>1753</sup> DAB-095, Transcript 28 September 2006, p. 28

1236. When the SLAs were disarmed, only those SLAs that were willing to fight alongside the RUF were allowed to have weapons. There was no SLA commander to obey. Everyone was obeying the RUF.<sup>1754</sup> This is clearly a lie. There is abundant Prosecution evidence that the SLA had commanders in Kono and in particular, the Second Accused. It may be that some SLAs were forced to fight with the RUF, but this was probably because after the Intervention they found themselves in the areas which had been put under the responsibility of RUF dominated battalions.
1237. DAB-095 has forgotten that SLA Mohamed Savage and some SLAs established a base in Tombodu Town. DAB-095 heard about Savage in Kono though he had never been there. The witness knew that Savage was in Tombodu carrying out atrocities.<sup>1755</sup> This again supports the Prosecution case.
1238. There were some areas where the People's Army occupied but there were some areas where they mixed up SLAs/RUF. In Tombodu they were mixed as well as in Yengema and Sewafe Bridge and even Koidu Town.<sup>1756</sup> This again supports the Prosecution evidence.
1239. DAB-095's knowledge in respect of Kono is restricted to a few very limited areas in Kono and he is only able to speak about Tombodu where he knew that Savage had a mixed battalion under his command and that it was People's Army and the SLAs who were there. This evidence regarding Tombodu Town supports the Prosecution case that it was a mixed force at Tombodu under the command of Savage who the evidence shows was an SLA.
1240. The only other area in Kono which DAB-095 gave evidence about, was Sewafe where he again supported the Prosecution case of a mixed force of SLAs, RUF and People's Army at Sewafe. They were the blocking force for the bridge. DAB-095 also does not know (and does not deny that) if the SLAs had their own chain of command in Kono.<sup>1757</sup>

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<sup>1754</sup> DAB-095, Transcript 20 September 2006, p. 44

<sup>1755</sup> DAB-095, Transcript 28 September 2006, pp. 33-34

<sup>1756</sup> DAB-095, Transcript 28 September 2006, p. 34

<sup>1757</sup> DAB-095, Transcript 28 September 2006, pp. 34-35



1241. DAB-095 did not see any SLA partake in any burning. He did not see anything happen other than houses being burnt.<sup>1758</sup> Such an observation casts severe doubt on the credibility of this witness, especially his total denial of seeing or hearing that the Second Accused was in command of SLAs in Kono. The Prosecution submits that this witness should be given very little weight as he is clearly being very selective with the truth.

1242. DAB-018 testified that there were no SLAs again, that everyone had subdued themselves to the RUF.<sup>1759</sup> He further testifies that after the Intervention the SLAs and RUF were not in friendship in Kono. Everyone was a rebel. There was the People's Army, it was not the SLA. DAB-095 does not know what the People's Army is.<sup>1760</sup> The People's army is clearly a mixed force of SLAs and RUF as alluded to in the Prosecution case who were working together to achieve a common objective.

1243. DAB-023's evidence is again restricted to Koidu Town. However, he did not see any SLAs at Masingbi Road. If there were soldiers there, he did not know it. It is the submission of the Prosecution that if this witness was based in Koidu Town, it is not believable that he would not know that there were SLA soldiers in Masingbi Road. In addition to Prosecution witnesses, Defence witnesses have also given evidence that they saw SLAs in Masingbi Road.<sup>1761</sup>

1244. When DBK-117 arrived in Kono, he was with his fellow soldiers, including George Johnson, aka Junior Lion, Bobby, Staff Alhaji, Salami Savage, who is Mr. Die and Papah Bomblast. He met a lot of RUFs in Kono as well. The SLAs had no direct command. They were taking command from the RUF. Superman was the overall commander in Kono and Morris Kallon was his deputy. In Kono, DBK-117 was with his SLA brothers at Masingbi Road in Koidu Town. The RUF were all over Koidu Town.<sup>1762</sup>

1245. DBK-117 says that it is not true that SLAs were working together with the RUF during the relevant time period in Kono. There were no SLAs at that time. DBK-117 was no longer SLA, he was People's Army. DBK-117 also testified that it was a lie that the

<sup>1758</sup> DAB-095, Transcript 20 September 2006, pp. 47-48

<sup>1759</sup> DAB-018, Transcript 7 September 2006, p. 12

<sup>1760</sup> DAB-018, Transcript 7 September 2006, pp. 13-14

<sup>1761</sup> DAB-023, Transcript 3 August 2006, pp. 69-70

<sup>1762</sup> DBK-117, Transcript 16 October 2006, pp. 114-116

atrocities that he attributed to the RUF in Kono were carried out by both SLAs and RUF.<sup>1763</sup>

1246. DBK-117 went to Tombodu and Staff Alhaji was the commander and Savage was the deputy. Regarding whether both Savage and Staff Alhaji were SLAs, DBK-117 says that they were all People's Army because they were subject to the RUF. DBK-117 went to Bumpé. The commander that he knew there was Capt. Komba Gbundema, not Lt. Kallay. DBK-117 also went to Sewafe, where Lt. Mosquito was in command. DBK-117 did not go to Yengema, Woama or Yamadu. All the places that DBK-117 mentioned did not have SLAs they were all People's Army.<sup>1764</sup>

1247. Even if the name which DBK-117 knew the RUF/SLAs under was Peoples Army, it is still clear that the SLAs and RUF under the guise of People's Army were still working together. The Prosecution, however, submits that DBK-117 is lying when he says that there were no SLA commanders. Savage and Staff Alhaji were both commanders and the evidence as a whole clearly shows that they were SLA. The SLAs that DBK-117 knew about were with SAJ Musa. Everyone else was People's Army.<sup>1765</sup> This is not believable.

1248. DAB-033 testified that it is not correct that the SLAs had their headquarters at Masingbi Road.<sup>1766</sup> In the face of the abundance of Prosecution evidence to the contrary, this is not believable. DAB-033 did not go to Tombodu Town but heard about Savage being under the RUF. When it was put to DAB-033 that Savage was a commander of a mixed SLA/RUF battalion based at Tombodu, he did not know who had been controlling. He knew that Savage was a commander.<sup>1767</sup>

1249. DAB-059 testified that between February and April of 1998 there were joint operations conducted by the SLAs and RUF.<sup>1768</sup>

<sup>1763</sup> DBK-117, Transcript 16 October 2006, pp. 33-36

<sup>1764</sup> DBK-117, Transcript 16 October 2006, pp. 36-38

<sup>1765</sup> DBK-117, Transcript 16 October 2006, p. 42

<sup>1766</sup> DAB-033, Transcript 2 October 2006, p. 75

<sup>1767</sup> DAB-033, Transcript 2 October 2006, pp. 77-78

<sup>1768</sup> DAB-059, Transcript 27 September 2006, pp. 92-93

## ANALYSIS

1250. The evidence of the Defence witnesses as it relates to Kono District in this section should be dismissed in its entirety. The Defence witnesses in this section not only contradict the evidence of the Prosecution witnesses, which is to be expected, but also contradict each other in significant respects. In contrast, the Prosecution witnesses in this area are very consistent.
1251. The case of the Prosecution is that there may well have been tension and an uneasy relationship between the SLAs and RUF in Kono especially as the more professional soldiers of the SLA did not want to subject themselves to the command of the less disciplined guerrilla fighters of the RUF. However, notwithstanding this tension, the Prosecution submits that it has produced overwhelming evidence to show that the two factions still worked together in defending Kono through two separate chains of command. Joint operations were carried out and when the SLA eventually pulled out of Kono under the First Accused in early to mid-May it was not on account of any open warfare with the RUF. The First Accused even took RUF radio operator Alfred Brown with him.
1252. Both Defence and Prosecution crime-base witnesses also overwhelmingly support the Prosecution case that the SLA and RUF were working jointly in Kono.
1253. TF1-074 was in Dumbadu for two months when the RUF and AFRC attacked there.<sup>1769</sup> AFRC and RUF attacked Dumbadu and put villages under their control; some were in full combat and others were in civilian clothes but armed.<sup>1770</sup> TF1-074 was in Bayawanu when he was captured by Armed Forces Revolutionary Council and Revolutionary United Front forces.<sup>1771</sup> TF1-074 and his brother, after being captured, were taken to Wordu and forced to carry looted property.<sup>1772</sup>
1254. Komba Gbundema was in charge of both the RUF and the AFRC. Soldiers were trained in Benguema. Rebels and soldiers were trained in the bush in Kailahun by an AFRC man, CO Plato.<sup>1773</sup>

<sup>1769</sup> TF1-074, Transcript 5 July 2005, p. 9

<sup>1770</sup> TF1-074, Transcript 5 July 2005, p. 11

<sup>1771</sup> TF1-074, Transcript 5 July 2005, pp. 11-12

<sup>1772</sup> TF1-074, Transcript 5 July 2005, p. 13

<sup>1773</sup> TF1-074, Transcript 5 July 2005, p. 54

1255. There was a battalion of AFRC and RUF at Kayima.<sup>1774</sup>
1256. TF1-074 was marked on his chest with both the Armed Forces Revolutionary Council and the Revolutionary United Front by an AFRC man called Bangalie.<sup>1775</sup>
1257. TF1-217 was in Koidu Town in February 1998, when Juntas and rebels attacked and committed crimes such as looting, stabbing and raping.<sup>1776</sup> Rebels were RUF fighters and Juntas were breakaway soldiers that fought against the government.<sup>1777</sup>
1258. The group that attacked Yardu Sandu were AFRC. AFRC were a group of mixed soldiers, soldiers and rebels mixed together. The rebels had come to town and joined the soldiers because they were the owners of the government.<sup>1778</sup>
1259. DAB-042 testified that he had heard that Johnny Paul Koroma, with a force of SLAs and RUF had forced the Kamajors and ECOMOG out of Koidu Town.<sup>1779</sup>
1260. DBK-126 was on the way to Koidu Town when she was captured by Bravo and taken to Masingbi Road in Koidu Town, where she was made the chief's cook. The chief was George Johnson, aka Junior Lion.<sup>1780</sup>
1261. DAB-115 testified that the troops under the command of Staff Alhaji were a combination of rebels and SLA soldiers from the AFRC.<sup>1781</sup>
1262. DAB-126 testified that Col. Oldshaw was an RUF and that he was in charge of the SLAs in Kayima.<sup>1782</sup>
1263. DAB-131 testified that in March of 1998 Johnny Paul Koroma dislodged the Kamajors from Koidu Town and that his forces consisted of AFRC soldiers and the RUF. DAB-131

<sup>1774</sup> TF1-074, Transcript 5 July 2005, p. 28

<sup>1775</sup> TF1-074, Transcript 5 July 2005, pp. 17-20; Exhibit P27, Photograph of the witness's chest bearing the markings AFRC/RUF, 5 July 2005

<sup>1776</sup> TF1-217, Transcript 17 October 2005, pp. 4-5

<sup>1777</sup> TF1-217, Transcript 17 October 2005, p. 9

<sup>1778</sup> TF1-019, Transcript 30 June 2005, p. 95

<sup>1779</sup> DAB-042, Transcript 15 September 2006, p. 94

<sup>1780</sup> DBK-126, Transcript 25 October 2006, p. 32

<sup>1781</sup> DAB-115, Transcript, 4 September 2006, p. 82

<sup>1782</sup> DAB-126, Transcript, 15 September 2006, p. 7

does not know if Johnny Paul Koroma ordered the burning of Koidu Town in February/March 1998.<sup>1783</sup>

1264. The Prosecution submits that for the most part the Defence witnesses corroborate the evidence of the Prosecution witnesses who testify to a mixed force of SLA/RUF and of SLA placement in Koidu Town. Specifically the testimony of DBK-126 clearly places the SLA at Masingbi Road.

1265. Though her evidence can be considered suspect in other areas, as far as it relates to SLA presence in Kono during the relevant time period, it can be relied upon. It is the case of the Prosecution that DBK-126 was, in fact, the Second Accused's cook in Kono instead of George Johnson's cook as she claimed. She has simply substituted George Johnson for the Second Accused in her evidence. This is logical and easy for her to do bearing in mind that George Johnson was the Second Accused's Chief Security Officer, whilst the Second Accused was in Kono and as such she would have been able to witness both of their movements.

1266. There are several Defence witnesses who state that those who attacked them were RUF based upon the fact that there was mixed clothing among the attackers. However, a constant thread among mixed forces of SLA/RUF has been that of mixed clothing, be it partial combats versus full combats or partial combats versus civilian clothes.

1267. It is the case of the Prosecution that the SLAs that fled from Freetown after the Intervention mostly wore uniforms but that as time passed by in the bush their uniforms would suffer from wear and tear. Without replacement uniforms they would continue to wear the part of their uniforms that was still viable but augment it with whatever other clothing was available. A basis for wearing even only part of a uniform as opposed to wearing completely civilian clothes would be to maintain their continued sense of identity as soldiers.

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<sup>1783</sup> DAB-131, Transcript 14 September 2006, pp. 68-69

## PRESENCE OF THE SECOND ACCUSED IN KONO DISTRICT AND COMMAND RESPONSIBILITY

### Prosecution Evidence

1268. The Prosecution submits that through its witnesses it has adduced overwhelming evidence to show that the Second Accused was present in Kono. It is pertinent that the two key insider military witnesses (TF1-334 and George Johnson, TF1-167) who identify the Second Accused as being present in Kono worked closely with him and knew him well. George Johnson had been the Second Accused's Chief of Security (CSO) since the Intervention and continued to be so in Kono.
1269. TF1-334 accompanied Hassan Papah Bangura nearly all the time and was his close confidant from Freetown to Kono after the Intervention. Hassan Papah Bangura was working closely in Kono with the Second Accused as his operations officer. Significantly, the credibility and reliability of TF1-334 and George Johnson - TF1-167 was not seriously challenged by the Second Accused with respect to the Second Accused's presence or position of command whilst in Kono.
1270. According to George Johnson - TF1-167, the troops were under the command of Superman and deputized by the Second Accused.<sup>1784</sup> On their way to Kono, the troops fought against the Kamajors and gained control of Koidu. The troops were led by Superman.<sup>1785</sup> Superman was in complete control of Kono and the Second Accused was his second in command (2IC).<sup>1786</sup> In Kono, the troops were divided into battalions and were under the overall command of Dennis Mingo, who was deputized by the Second Accused.<sup>1787</sup>
1271. The Second Accused was in Koidu upon the return of TF1-334. The Second Accused was the most senior Sierra Leone Army commander and superior to Hassan Papah Bangura.<sup>1788</sup> The Second Accused was the most senior Armed Forces Revolutionary Council Supreme Council member and from that time orders were being received from the Second Accused

<sup>1784</sup> TF1-167, Transcript 15 September 2005, p. 31

<sup>1785</sup> TF1-167, Transcript 15 September 2005, p. 32

<sup>1786</sup> TF1-167, Transcript 15 September 2005, p. 32

<sup>1787</sup> TF1-167, Transcript 15 September 2005, p. 38

<sup>1788</sup> TF1-334, Transcript 18 May 2005, p. 21

through the operations commander.<sup>1789</sup> TF1-334 would meet with the Second Accused and the operation commander (Hassan Papah Bangura) and it was the Second Accused that gave orders.<sup>1790</sup>

1272. Superman was superior to the Second Accused in Kono. Whenever an operation was to take place, Superman would call the Second Accused and the operation commander would go to Superman at Dabundeh Street.<sup>1791</sup> The head of the SLA brigade was the Second Accused until the arrival of the First Accused.<sup>1792</sup>

1273. There were operations in Kono District. Superman, Hassan Papah Bangura and the Second Accused planned the operations.<sup>1793</sup>

1274. The First Accused came as an advisor for both the Sierra Leone Army and the Revolutionary United Front. He took command from the Second Accused. He immediately became the Sierra Leone Army commander and the second man in Koidu.<sup>1794</sup>

#### Defence Evidence

1275. Though not specifically stated, the theme that runs through the vast majority of the Defence evidence in this area is that the Accused, specifically the Second Accused was not present in Kono during the relevant time period. The inherent flaw in this argument is that while the majority of the witnesses, including many, so called, Defence insiders state that they did not see the Accused, including the Second Accused, in Kono during the relevant time period, they could not place the Accused in any other location. Additionally, the Prosecution submits that where the Defence witnesses did not see the Accused in Kono, it does not preclude the Prosecution evidence that the Accused were in fact there. Also a lot of the so called Defence insider testimony suffers from lack of credibility as already submitted in the analysis of the prior section.

<sup>1789</sup> TF1-334, Transcript 18 May 2005, p. 22

<sup>1790</sup> TF1-334, Transcript 18 May 2005, p. 23

<sup>1791</sup> TF1-334, Transcript 18 May 2005, p. 24

<sup>1792</sup> TF1-334, Transcript 19 May 2005, p. 37

<sup>1793</sup> TF1-334, Transcript 19 May 2005, p. 4

<sup>1794</sup> TF1-334, Transcript 19 May 2005, p. 8

1276. The Prosecution case, on the other hand, relies upon witnesses that would have had close access to the Accused based upon their positions. As it relates to the Second Accused, the Prosecution relies upon George Johnson - TF1-167, who served as CSO to the Second Accused and would have been with him while serving in that capacity, including in Kono District. In fact, the testimony of Defence witness DBK-126 places TF1-167 in Kono and at Masingbi Road. Defence witness DBK-117 also places TF1-167 in Kono as well.

1277. It would be illogical to presume that as a CSO, TF1-167 would be in an area without the person that he was charged with protecting. Likewise with TF1-334, who was attached to a senior AFRC member whose duties would take him into close proximity with the Accused, he would be in a better position to give evidence concerning the location and movements of the Accused based upon the position he held.

1278. As a whole, in relation to this section, the Prosecutions evidence should be given more weight than the Defence evidence, especially since it is far more consistent than the Defence evidence.

## **THE CRIMES CHARGED**

### **INDIVIDUAL CRIMINAL RESPONSIBILITY – KONO**

#### **JOINT CRIMINAL ENTERPRISE**

1279. For all crimes committed as mentioned below, the three Accused are individually criminally responsible under the theory of joint criminal enterprise, in that the crimes were within the contemplation of the common enterprise or were a reasonably foreseeable consequence of its implementation. Liability pursuant to the theory of joint criminal enterprise for the period after the ECOMOG Intervention has been analysed above and this analysis applies to the crime base of Kono.



## INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 6(1)

### Kamara

#### *Planning, Instigating or otherwise Aiding and Abetting*

1280. It is clear from the evidence that the Second Accused was present in Kono District at the time these killings occurred. The Prosecution evidence regarding the Second Accused's presence in Koidu is consistent and confirmed by various witnesses (TF1-167<sup>1795</sup>, TF1-334<sup>1796</sup>). The Defence evidence is not necessarily in contradiction to the Prosecution evidence. Many witnesses testified that they did not see the Second Accused in Kono District (DAB-018<sup>1797</sup>, DAB-023<sup>1798</sup>, DAB-059<sup>1799</sup>, DAB-095<sup>1800</sup>) or that they did not know if he was based there (DAB-107<sup>1801</sup>, DAB-039<sup>1802</sup>), but offered no alternative as to where the Second Accused was. Consequently, their evidence does not mean that the Second Accused was not in Kono and the only reasonable conclusion on the evidence is that the Second Accused was there.

1281. Indeed, the Second Accused was the second in command in Kono and as such he was involved in planning and designing<sup>1803</sup> the operations and crimes committed in Kono District. During these attacks, villages were burnt<sup>1804</sup> and unlawful killings,<sup>1805</sup> sexual violence,<sup>1806</sup> forced labour and physical violence occurred.<sup>1807</sup> These attacks were carried out partly with the use of child soldiers.<sup>1808</sup> The Second Accused intended that the crimes committed would occur, or was aware of the substantial likelihood of the occurrence of all

<sup>1795</sup> TF1-167, Transcript 15 September 2005, p. 31

<sup>1796</sup> TF1-334, Transcript 18 May 2005, p. 21

<sup>1797</sup> DAB-018, Transcript 7 September 2006, p. 45

<sup>1798</sup> DAB-023, Transcript 31 July 2006, p. 105

<sup>1799</sup> DAB-059, Transcript 2 October 2006, p. 26

<sup>1800</sup> DAB-095, Transcript 28 September 2006, p. 29

<sup>1801</sup> DAB-107, Transcript 8 September 2006, pp. 79-80

<sup>1802</sup> DAB-039, Transcript 5 September 2006, p. 90

<sup>1803</sup> TF1-334, Transcript 18 May 2005, p. 4 and 24

<sup>1804</sup> TF1-334, Transcript 18 May 2005, p. 5.

<sup>1805</sup> TF1-334, TF1-217, TF1-206, DSK-103 for Koidu Town; TF1-079, TF1-072, TF1-216, TF1-167, DAB-023, DAB-098 for Tombodu; TF1-216, DAB-114 for Paema; TF1-019 for Yardu Sandu; TF1-072 for Wordu; TF1-217 for Penduma; TF1-206 for Bomboafuidu, TF1-334 fro Koidu Geiya.

<sup>1806</sup> For example witness: TF1-217, TF1-334, TF1-217, TF1-019, TF1-133, TF1-198. This evidence was not challenged.

<sup>1807</sup> Physical Violence: TF1-216, TF1-076, TF1-072, DAB-108, DAB-098, DAB-114. Abductions and Forced Labour: TF1-076, DAB-107, DAB-098, FT1-072, TF1-074.

<sup>1808</sup> Child Soldiers: TF1-334.

these crimes. This may be inferred from the Second Accused's position of command, his participation in the planning of the attacks and the fact he was given situation reports about ongoing operations in the field, demonstrating that he was well informed about the crimes in the field. By these acts, the Second Accused is liable for planning and instigating the crimes charged.

1282. Alternatively, the Second Accused is liable for aiding and abetting all of the crimes charged through his presence on the ground, his position of authority and his active support for the operations. The criminal acts were so widespread (for example killings committed by Savage in Tombodu,<sup>1809</sup> a subordinate of the Second Accused whom he promoted<sup>1810</sup>) that the only possible inference, in view of his command position, is that the Second Accused actively encouraged these acts or was aware that he was assisting the perpetrators in the commission of the crimes.

#### *Ordering*

1283. The evidence shows that the Second Accused gave direct order to burn houses, especially in the area of Masingbi Road.<sup>1811</sup> There is further evidence that the Second Accused ordered attacks in Kono,<sup>1812</sup> and in view of the systematic pattern of the crimes in Kono and other districts, coupled with his position as a commander, it may be inferred that he gave orders for all of the crimes charged in Kono. He intended to bring the commission of these crimes about, or was aware of the substantial likelihood that they would occur based on his orders.

### **SUPERIOR RESPONSIBILITY UNDER ARTICLE 6(3)**

1284. The Prosecution submits that in the light of all the evidence, coupled with the high level of authority possessed by the Second Accused during the attack and occupation of the villages in the Kono District, the Second Accused bears responsibility pursuant to Article 6(3) of the Statute for the crimes committed during this period.

<sup>1809</sup> TF1-216, Transcript 27 June 2005, pp. 92-93, TF1-334, Transcript 18 May 2005, p. 14.

<sup>1810</sup> TF1-334, Transcript 18 May 2005, p. 50.

<sup>1811</sup> TF1-334, Transcript 18 May 2005, p. 7.

<sup>1812</sup> TF1-334, Transcript 18 May 2005, p. 23.

1285. The Prosecution submits that the evidence demonstrates that there was a superior subordinate relationship between the Second Accused and the perpetrators, who in most cases were carrying out the orders of the Accused, resulting in the commission of the crimes as charged.
1286. Based on the fact that in most cases the orders to commit crimes were given to the subordinates directly by the Accused or at least in their presence, the Accused either knew or at the very least had reason to know that the subordinates were about to commit the offences or had done so. The Prosecution submits that so notorious were the crimes committed by SLA Savage in Tombodu Town that it would not have been possible for the Second Accused not to have been aware of these crimes especially as the evidence shows that the Second Accused even visited Tombodu Town.
1287. As the key commander in the field, the Second Accused clearly had the material ability to prevent offences or to punish those subordinates responsible for committing crimes. The necessary and reasonable measures to do so were at the disposal of the Second Accused, however, far from putting any such procedures into effect, he himself gave orders for, and actively encouraged, killings, physical and sexual violence and the burning of villages amounting to a campaign of terrorism.

#### **COUNTS 1 – 2**

1288. The evidentiary basis for the crimes charged in Counts 3 to 14 of the Indictment as set out below, taken as a whole, provides the evidentiary basis for the acts of terrorism charged as Count 1 and the collective punishments charged as Count 2.

#### **COUNTS 3-5 UNLAWFUL KILLINGS**

1289. Johnny Paul Koroma said that Kono should be a civilian no-go area, meaning that civilians that were not part of the troop movement should not be allowed to be in the area. He ordered that they clear them and to execute those who were not ready to join the

movement. He said that the civilians should not go anywhere where they would be able to give information about the troop's current location.<sup>1813</sup>

#### Koidu – Prosecution Evidence

1290. The returning people told TF1-217 that ECOMOG was not in Koidu town, that it was still occupied by rebel and Junta soldiers and that the rebels and Juntas had killed some of the civilians.<sup>1814</sup> One boy told TF1-206 that members of Johnny Paul Koroma's convoy had demanded food from people in Koidu Town and had shot and killed in Koidu Town.<sup>1815</sup>

1291. It is not in dispute that there were killings in Koidu Town. The defence claims, through DAB-025, that the RUF was responsible for the killings in Koidu Town. However, Defence witness DSK-103 stated that he saw the attackers and that they were wearing military uniforms. This ties in more with the Prosecution case that the SLAs, or in the alternative a mixed SLA/RUF force, committed the killings in Koidu Town.

#### Tombodu – Prosecution Evidence

1292. TF1-076 was in Tombodu in 1998 when Johnny Paul Koroma was in the area. TF1-076 fled to Foendor with her sister, her sister's husband and uncle because at the time Johnny Paul Koroma was in the area and the rebels were killing people.<sup>1816</sup>

1293. The friends of TF1-072 came looking for him and then they ran away. Savage ordered the soldiers to take their guns. The soldiers shot at the witness's friends and TF1-072 saw one man fall.<sup>1817</sup>

1294. After the people were put in the house, the soldier came back and reported to Staff Alhaji that 53 people were inside the house. TF1-216 heard Staff Alhaji give the command that the house where the civilians had been taken should be set on fire.<sup>1818</sup>

1295. At Tombodu, George Johnson - TF1-167 met Savage, the battalion commander, who had already killed a lot of people thrown in a pit, more than 150 corpses, all civilians, killed

<sup>1813</sup> TF1-334, Transcript 18 May 2005, p. 3

<sup>1814</sup> TF1-217, Transcript 17 October 2005, pp. 13-14

<sup>1815</sup> TF1-206, Transcript 28 June 2005, p. 82

<sup>1816</sup> TF1-076, Transcript 27 June 2005, p. 102

<sup>1817</sup> TF1-072, Transcript 1 July 2005, p. 20

<sup>1818</sup> TF1-216, Transcript 27 June 2005, pp. 92-93

with machetes. Going up the court barri from the pit, there were about five other dead bodies on the floor.<sup>1819</sup>

1296. Mohamed Savage took 15 other civilians and put them in a room and set the house ablaze. He set the blaze himself.<sup>1820</sup> Savage, together with one of his soldiers, an SLA called Guitar Boy started to behead the remaining people. There were about 47 people who were beheaded and thrown into the pit.<sup>1821</sup>

#### Tombodu – Defence Evidence

1297. When Savage sent out food finding missions, the ‘RSMT’ captured civilians to carry the food to Tombodu Town. When the civilians arrived, Savage would kill them.<sup>1822</sup> Savage hacked an old woman to death with a cutlass when she came in searching for food.<sup>1823</sup> Savage also killed 47 people in Tombodu who were arrested by the ‘RSMT’ on a food finding mission and forced to carry food items on their head.<sup>1824</sup>

1298. On another occasion the ‘RSMT’ captured 44 people on a food finding mission. Savage passed orders to ‘RSMT’, Alhaji and Lt. Mohammed to lock the 44 people up in a house. Savage then set the house on fire, killing everyone inside.<sup>1825</sup>

1299. In Tombodu Town there was Savage Pit One and Savage Pit Two. Savage took 17 people close to the pit and shot them. They then fell into the pit.<sup>1826</sup> Savage Pit One and Savage Pit Two were called that because it was the place where Savage killed people.<sup>1827</sup>

1300. DAB-023 testified that he stayed with Savage till he became mad. He further testified that Savage became mad after he had killed an old woman. That old woman was the last person that Savage had killed. He explained a dream he had in which the old woman he killed had appeared to him. The next day Savage took a gun and started shooting in the town.<sup>1828</sup>

<sup>1819</sup> TF1-167, Transcript 15 September 2005, p. 45

<sup>1820</sup> TF1-334, Transcript 20 May 2005, p. 14

<sup>1821</sup> TF1-334, Transcript 20 May 2005, p. 15

<sup>1822</sup> DAB-023, Transcript 31 July 2006, p. 45

<sup>1823</sup> DAB-023, Transcript 31 July 2006, p. 45

<sup>1824</sup> DAB-023, Transcript 31 July 2006, pp. 45-46

<sup>1825</sup> DAB-023, Transcript 31 July 2006, pp. 49-50

<sup>1826</sup> DAB-023, Transcript 31 July 2006, p. 50

<sup>1827</sup> DAB-023, Transcript 31 July 2006, p. 52

<sup>1828</sup> DAB-023, Transcript 31 July 2006, pp. 51-52

1301. DAB-098 met a rebel called Wounded, who was under the command of Savage. Savage ordered Wounded to put a baby in a pit latrine.<sup>1829</sup> Officer Med killed a woman by crushing her head with a stone. Her body was taken to Savage Pit in Tombodu Town.<sup>1830</sup> Savage and his men were scattered in all the villages close to Tombodu Town. Savage was their leader.<sup>1831</sup>
1302. DAB-098 testified that Savage was the leader of the group of rebels that caught people, put them in the house of Pa Hardy and burnt it down while they were still inside.<sup>1832</sup>
1303. DAB-108 testified that he was part of a group of 15 people from an original group of 58 that were spared by Savage due to the pleadings of a soldier named Victor Teh. The remainder of the group were put in Monument House and burnt.<sup>1833</sup> Victor Teh was a soldier and Savage was his boss.<sup>1834</sup>
1304. There is no dispute that killings took place in Tombodu Town. There is also no dispute that these killings were committed by Savage or those under his command.
1305. The Prosecution contends that Savage and those under his command were SLAs, or in the alternative a mixed SLA/RUF mixed force. Defence witness DAB-108 clearly states that there were soldiers under Savages command as opposed to solely RUF.
1306. The Defence contention is that Savage was operating independently of any organization or in the alternative was mentally unstable at the time the crimes were committed and thus cannot be attributed to any organization. However, Defence witness DAB-023 clearly states that Savage went “mad” only after killing his last victim, so this particular phase of the Defence argument can be easily dispensed with.

<sup>1829</sup> DAB-098, Transcript 4 September 2006, p. 27

<sup>1830</sup> DAB-098, Transcript 4 September 2006, p. 29

<sup>1831</sup> DAB-098, Transcript 4 September 2006, pp. 43-44

<sup>1832</sup> DAB-098, Transcript 4 September 2006, p. 33

<sup>1833</sup> DAB-108, Transcript 5 September 2006, p. 113

<sup>1834</sup> DAB-108, Transcript 5 September 2006, p. 114

### Penduma – Prosecution Evidence

1307. Once everyone was captured by the Junta soldiers, the civilians were divided up into groups. Pregnant women, children and suckling mothers were in one group, women in a second group and men in a third group.<sup>1835</sup>
1308. Staff Alhaji ordered that the first line of men be placed in a house. They were placed there and the house was set on fire. TF1-217 did not see the men placed in the house but knew that they were burned alive because he heard their screaming and saw the flames.<sup>1836</sup>
1309. Staff Alhaji turned to the next line of men and had one of his boys bring a bag full of knives, which the boy emptied on the ground. The Junta soldiers picked up the knives, took the men behind a school and slit their throats. Two men attempted to run but they were shot. TF1-217 knew their throats had been slit because when he fled the village with his children he saw the men.<sup>1837</sup> TF1-217's wife was killed by Junior and a member of the Sierra Leone Army called Tamba Joe (T Joe).<sup>1838</sup>
1310. Extensive evidence has been led that Staff Alhaji was an SLA working with SLA Savage in Tombodu Town and the surrounding areas.
1311. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

### **COUNTS 6-9 SEXUAL VIOLENCE**

#### Koidu Town – Prosecution Evidence

1312. TF1-217 was in Koidu Town in February 1998. Juntas and rebels were there as well, committing atrocities including rapes.<sup>1839</sup>
1313. TF1-334 and the troops captured civilians, especially strong men, young women and children aged 8-12. The women, especially the beautiful ones were under the full control

<sup>1835</sup> TF1-217, Transcript 17 October 2005, p. 19

<sup>1836</sup> TF1-217, Transcript 17 October 2005, p. 20

<sup>1837</sup> TF1-217, Transcript 17 October 2005, pp. 21-22

<sup>1838</sup> TF1-217, Transcript 17 October 2005, p. 23

<sup>1839</sup> TF1-217, Transcript 17 October 2005, pp. 4-5

of the commanders and became their wives and cooked for the soldier.<sup>1840</sup> They were unmarried and they were captives. The women were used sexually.<sup>1841</sup> The women were engaged with the troops in sexual intercourse.<sup>1842</sup>

1314. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted

#### Yawando – Prosecution Evidence

1315. Soldiers saw that TF1-198 and another woman had rice. The soldiers told TF1-198 to bring out the rice or else they would be beaten. The soldier removed TF1-198's lappa from around her waist. He said that he wanted to rape TF1-198. TF1-198 told the soldier that she was pregnant and begged him not to rape her. The soldier took a large stick and inserted it into TF1-198's anus/innards.<sup>1843</sup> The same rebel who flogged TF1-198 is the same one who later inserted the stick into her anus/innards.<sup>1844</sup>

1316. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

#### Woronbiai – Prosecution Evidence

1317. Mohammed the Killer told TF1-133 that Cobra was her husband.<sup>1845</sup> TF1-133 refused to marry Cobra and Mohammed the Killer said that she was to be killed.<sup>1846</sup> Mohammed the Killer cut TF1-133 on the buttocks with a bayonet because she refused to accept Cobra as a husband.<sup>1847</sup>

1318. The other women who were captured with TF1-133 were all given to men as wives.<sup>1848</sup> The other wife of TF1-133's husband was given to a rebel named Kamba. Bamba Jalloh

<sup>1840</sup> TF1-334, Transcript 20 May 2005, p. 5

<sup>1841</sup> TF1-334, Transcript 20 May 2005, p. 6

<sup>1842</sup> TF1-334, Transcript 20 May 2005, p. 7

<sup>1843</sup> TF1-198, Transcript 28 June 2005, pp. 11-12. See also p. 23, where translation issues were raised.

<sup>1844</sup> TF1-198, Transcript 28 June 2005, p. 36. See also p. 23, where translation issues were raised

<sup>1845</sup> TF1-133, Transcript 7 July 2005, p. 89

<sup>1846</sup> TF1-133, Transcript 7 July 2005, p. 89

<sup>1847</sup> TF1-133, Transcript 7 July 2005, pp. 89-90

<sup>1848</sup> TF1-133, Transcript 7 July 2005, pp. 90-91



was given to a Mende rebel named Yubao.<sup>1849</sup> The women who were given as wives were forced to have sex with their husbands.<sup>1850</sup>

1319. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

#### Tombodu – Prosecution Evidence

1320. A rebel with a Tupac t-shirt took TF1-076 and said he was going to have sex with her. The rebel then gathered TF1-076's skirt and pants and used a knife to tear them. The rebel was still carrying his gun and pulled his pants down, pulled out his penis and penetrated her. TF1-076 bled a lot and became unconscious.<sup>1851</sup>

1321. Again, while there is no dispute that there was sexual violence in Tombodu during the relevant time period, the Prosecution relies on its evidence that Savage was the SLA Battalion commander in Tombodu subordinate to the Second Accused.

#### Bomboafuidu – Prosecution Evidence

1322. The rebels told the people to undress. A young boy, aged 12-14, dressed in combat and armed with a gun told TF1-206 to undress.<sup>1852</sup>

1323. The rebels took seven women out of the line and laid them down and opened their legs.<sup>1853</sup> The rebels picked out seven civilians to have sex with the women. TF1-206 was among the seven chosen. TF1-206 and the others had sex with the women while the rebels stood by watching and laughing.<sup>1854</sup> The seven men selected by the rebels were forced to have sex with the women.<sup>1855</sup>

1324. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

<sup>1849</sup> TF1-133, Transcript 7 July 2005, p. 91

<sup>1850</sup> TF1-133, Transcript 7 July 2005, pp. 91-92

<sup>1851</sup> TF1-076, Transcript 27 June 2005, pp. 104-106

<sup>1852</sup> TF1-206, Transcript 28 June 2005, p. 92

<sup>1853</sup> TF1-206, Transcript 28 June 2005, p. 95

<sup>1854</sup> TF1-206, Transcript 28 June 2005, p. 96

<sup>1855</sup> TF1-206, Transcript 29 June 2005, pp. 12-13

## COUNTS 10-11 PHYSICAL VIOLENCE

### Tombodu – Prosecution Evidence

1325. Staff Alhaji told five civilians that they were going to bring a message to President Kabbah. Staff Alhaji said that they would not be killed but that soldiers would cut off both of their hands. Staff Alhaji passed the order to Rambo and his soldiers who cut off the hands of TF1-216 and the others with a cutlass.<sup>1856</sup> TF1-216's hands were amputated on 14 April 1998. After the amputations TF1-216 and the others went to the ECOMOG base at Lebanon, Koikwema. Three of the five civilians died on the way.<sup>1857</sup>

1326. TF1-076 knew that the people that attacked Tombodu were rebels because at that time they were killing people and cutting off their hands. Two of the rebels carried guns while the third rebel had a cutlass. One of the rebels was in a combat trousers and a shirt and the others were in plain clothes.<sup>1858</sup> The rebels captured TF1-076 and her sister's husband and flogged him.<sup>1859</sup>

1327. TF1-072 was slapped with the flat side of a cutlass but was not cut.<sup>1860</sup> Savage told TF1-072 that he was lying and cut him with the cutlass on the upper right calf. TF1-072 was also wounded on the left calf.<sup>1861</sup> When TF1-072 complained about his treatment he was stabbed in the rib area with a bayonet by Little Mosquito.<sup>1862</sup>

1328. Savage informed the civilians that he was going to cut off their hands. The civilians, including TF1-072 were tied up and laid on the ground.<sup>1863</sup> Little Mosquito put straw mattresses on them and set them on fire.<sup>1864</sup> TF1-072 was burned on his right shoulder and was able to kick the mattress away.<sup>1865</sup> Savage kicked TF1-072 in the head and caused permanent vision loss. TF1-072 was also flogged.<sup>1866</sup> TF1-072 sustained vision loss when

<sup>1856</sup> TF1-216, Transcript 27 June 2005, pp. 93-94

<sup>1857</sup> TF1-216, Transcript 27 June 2005, pp. 94-95

<sup>1858</sup> TF1-076, Transcript 27 June 2005, pp. 103-104

<sup>1859</sup> TF1-076, Transcript 27 June 2005, pp. 104-105

<sup>1860</sup> TF1-072, Transcript 1 July 2005, pp. 38-39

<sup>1861</sup> TF1-072, Transcript 1 July 2005, p. 15

<sup>1862</sup> TF1-072, Transcript 1 July 2005, p. 16

<sup>1863</sup> TF1-072, Transcript 1 July 2005, pp. 16-17

<sup>1864</sup> TF1-072, Transcript 1 July 2005, p. 14

<sup>1865</sup> TF1-072, Transcript 1 July 2005, p. 17

<sup>1866</sup> TF1-072, Transcript 1 July 2005, p. 18

he was struck in the face with the flat side of a cutlass.<sup>1867</sup> Savage cut TF1-072's hand. TF1-072 has a scar on his right hand and his fingers are mangled.<sup>1868</sup>

1329. TF1-334 went to Tombodu when Mohamed Savage sent word that some civilians had come singing as they had alleged that ECOMG had captured the ground.<sup>1869</sup> It was in fact Mohamed Savage and his men wearing ECOMOG uniforms.<sup>1870</sup> There were approximately 78 civilians. Mohamed Savage was chopping hands. About 15 people were amputated, mostly men. He told them to tell ECOMOG that Mohamed Savage was in Tombodu and that this was a warning for other civilians.<sup>1871</sup>

#### Penduma/Manikala – Prosecution Evidence

1330. While in Penduma, TF1-217 was with his daughter when he came across a Mr. Mohamed Kamara. Mr. Kamara's arm had been amputated. Mr. Kamara told TF1-217 that Staff Alhaji had amputated his arm and that this occurred in a village called Manikala, near Tombodu.<sup>1872</sup>

1331. Staff Alhaji pointed to TF1-217 and ordered him to be tied up. Staff Alhaji proceeded to amputate two people's hands before he approached TF1-217. He asked TF1-217 for his watch. TF1-217 couldn't take the watch off and Staff Alhaji cut the watch off and cut TF1-217's forearm.<sup>1873</sup> Staff Alhaji told TF1-217 to place his hand on the ground. TF1-217 removed his hand before Staff Alhaji could cut it. Staff Alhaji hit TF1-217 in the head with the cutlass, causing a gash/scar. Staff Alhaji then chopped TF1-217 hand 11 times before it was amputated.<sup>1874</sup>

1332. The Prosecution relies on the evidence that Staff Alhaji was an SLA under the command of Savage.

1333. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

<sup>1867</sup> TF1-072, Transcript 1 July 2005, p. 39

<sup>1868</sup> TF1-072, Transcript 1 July 2005, p. 19

<sup>1869</sup> TF1-334, Transcript 20 May 2005, p. 12

<sup>1870</sup> TF1-334, Transcript 20 May 2005, p. 12

<sup>1871</sup> TF1-334, Transcript 20 May 2005, p. 13

<sup>1872</sup> TF1-217, Transcript 17 October 2005, p. 16

<sup>1873</sup> TF1-217, Transcript 17 October 2005, pp. 23-24

<sup>1874</sup> TF1-217, Transcript 17 October 2005, p. 25

### Yawando – Prosecution Evidence

1334. Soldiers cut TF1-198 and tied her hands behind her back.<sup>1875</sup> While following the soldier that had looted from them the husband of TF1-198 was told to stop following or he would be shot. The soldier cut a whip with a cutlass and hit TF1-198's husband in the head numerous times.<sup>1876</sup> The man who flogged TF1-198's husband was called Lansana: one of Staff Alhaji's men.<sup>1877</sup> TF1-198 and her husband were flogged in Yawando bush.<sup>1878</sup>

1335. The Prosecution relies on the evidence that Staff Alhaji was an SLA under the command of Savage.

1336. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

### Bomboafuidu – Prosecution Evidence

1337. The rebels chopped off the hand of a man named Musa.<sup>1879</sup> The rebels then amputated the hand of TF1-206. The rebel said that the amputation had not gone well so he did it again.<sup>1880</sup> The hand of TF1-206 was not completely severed by the first blow of the cutlass. When the rebel raised the cutlass again, TF1-206 blocked the cutlass in mid-air. The rebel chopped TF1-206 on the back with the cutlass and then struck TF1-206's right hand again.<sup>1881</sup> Both of TF1-206's hands are intact but no longer function.<sup>1882</sup>

1338. TF1-206 saw other people that had been amputated. Mussa Marrah (two hands and two ears), Adama (one hand amputated and one hand cut, not severed), Alfa (one hand and both ears severed), Alfa Kabia (both hand amputated), Ibrahim (one hand severed), Mohammed Kanu Santigie Borbor (hands mutilated, Abdul Kargbo (hand chopped), Pa Osman (hand chopped) Abdul Rahan and Sorie Dabo (hand chopped), Sahr Lebbie (hand amputated) and Idrissa Gborie (hand amputated)<sup>1883</sup>

<sup>1875</sup> TF1-198, Transcript 28 June 2005, pp. 8-9

<sup>1876</sup> TF1-198, Transcript 28 June 2005, p. 9

<sup>1877</sup> TF1-198, Transcript 28 June 2005, p. 18

<sup>1878</sup> TF1-198, Transcript 28 June 2005, p. 22

<sup>1879</sup> TF1-206, Transcript 28 June 2005, p. 98

<sup>1880</sup> TF1-206, Transcript 28 June 2005, p. 98

<sup>1881</sup> TF1-206, Transcript 28 June 2005, pp. 99-100

<sup>1882</sup> TF1-206, Transcript 28 June 2005, pp. 100, 108

<sup>1883</sup> TF1-206, Transcript 28 June 2005, pp. 102-104

1339. During the amputations, the commander was on the veranda. The rebels would always ask his permission before doing anything.<sup>1884</sup>

1340. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

## **COUNT 12 USE OF CHILD SOLDIERS**

### Tombodu – Prosecution Evidence

1341. Children were trained in the SBU-Small Boys Unit. They stayed with the various commanders and were used to amputate people in Kono. It happened in the presence of TF1-334. The small boys were designed to amputate.<sup>1885</sup>

### Tombodu – Defence Evidence

1342. While DBK-117 was involved in patrols the RUF had children as soldiers among them and called them SBUs.<sup>1886</sup>

### Bomboafuidu – Prosecution Evidence

1343. TF1-206 saw more than 6 small boys with the rebels. The boys wore combat uniforms or combat uniforms with jeans and carried guns.<sup>1887</sup>

1344. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted

## **ANALYSIS**

1345. There is no dispute that there were child soldiers in Kono during the relevant time period. The evidence reflects that both the RUF and SLAs used child soldiers in Kono.

1346. Both the Prosecution and Defence experts agree that both the SLA and RUF used child soldiers throughout the conflict.

<sup>1884</sup> TF1-206, Transcript 28 June 2005, p. 104

<sup>1885</sup> TF1-334, Transcript 20 May 2005, p. 6

<sup>1886</sup> DBK-117, Transcript 16 October 2006, p. 34

<sup>1887</sup> TF1-206, Transcript 28 June 2005, p. 105

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### COUNTS 13 ABDUCTIONS AND FORCED LABOUR (ENSLAVEMENT)

#### Tombodu – Prosecution Evidence

1347. Three rebels came and captured TF1-076 and her sister's husband.<sup>1888</sup> In Tombodu there were 14 captured civilians. One of the soldiers saluted and called "Mr. Savage, sir". He said that they had brought him luggage and captives.<sup>1889</sup>

1348. There is no dispute as to abductions and the use of forced labour.

1349. The evidence shows that Savage was an SLA and that he was appointed battalion by the Second Accused. Even if Savage's troops were a mixed RUF /SLA battalion Savage was still be under the command of the Second Accused who appointed him to that position.

#### Gbaima – Prosecution Evidence

1350. TF1-072 and his friend climbed a hill past Gbaima looking for bush yams when they encountered seven men dressed as soldiers and one man who had a rope tied around his waist. The man with the rope tied around his waist was not wearing a soldier uniform and one of the soldiers held the end of the rope.<sup>1890</sup>

1351. TF1-072 and his friend were taken into Gbaima where they saw property and bundles. TF1-072, his friend and the man that was tied around the waist were untied and given luggage to carry. They travelled with the luggage to Tombodu.<sup>1891</sup> Between Tombodu and Gbaima they met two people foraging for food. The soldiers told the two men that they should come with them. The soldiers placed some luggage on their heads and continued towards Tombodu.<sup>1892</sup>

1352. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted

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<sup>1888</sup> TF1-076, Transcript 27 June 2005, p. 103

<sup>1889</sup> TF1-072, Transcript 1 July 2005, p. 14

<sup>1890</sup> TF1-072, Transcript 1 July 2005, p. 7

<sup>1891</sup> TF1-072, Transcript 1 July 2005, p. 9

<sup>1892</sup> TF1-072, Transcript 1 July 2005, p. 10

Dewadu – Prosecution Evidence

1353. When soldiers had finished looting the village and placing the items outside, they told the young men in the group of civilians they had placed on the veranda to take the things that they were going to Gandorhun.<sup>1893</sup> The civilians were forced to carry the looted items.<sup>1894</sup>
1354. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

Bayawandu – Prosecution Evidence

1355. TF1-074 was in Bayawandu when he was captured by Armed Forces Revolutionary Council and Revolutionary United Front forces.<sup>1895</sup> After being captured, TF1-074 and his brother after being captured, were taken to Wordu and forced to carry looted property.<sup>1896</sup>
1356. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

Koidu Town – Prosecution Evidence

1357. TF1-334 and the other troops captured civilians, especially strong men, young women and children 8-12. The men were used to carry our food and some were trained.<sup>1897</sup> The women were responsible for the cooking while the men carried the wood and pounded the rice for the troops based in Kono.<sup>1898</sup>
1358. The Prosecution submits that the evidence clearly shows that both the SLAs and the RUF were using forced labour both individually and collectively whilst working as one.

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<sup>1893</sup> TF1-198, Transcript 28 June 2005, p. 6

<sup>1894</sup> TF1-198, Transcript 28 June 2005, p. 22

<sup>1895</sup> TF1-074, Transcript 5 July 2005, pp. 11-12

<sup>1896</sup> TF1-074, Transcript 5 July 2005, p. 13

<sup>1897</sup> TF1-334, Transcript 20 May 2005, p. 5

<sup>1898</sup> TF1-334, Transcript 20 May 2005, p. 34

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## COUNTS 14 LOOTING AND BURNING

### Koidu Town – Prosecution Evidence

1359. TF1-217 was in Koidu Town in February 1998. Juntas and rebels were there as well, committing atrocities including looting.<sup>1899</sup> When TF1-217 returned to Koidu Town, he saw Juntas and rebels burning houses.<sup>1900</sup> Lt. T, a soldier in the Sierra Leone Army, and his boys were burning houses, including the house of TF1-217.<sup>1901</sup> TF1-217 only saw Lt. T when houses were being burned in Koidu Town. Soldiers told TF1-217 that they were led by Akim Sesay.<sup>1902</sup>

1360. Johnny Paul Koroma stated that since Kono was a civilian no go area all the surrounding houses should be burnt down so that no civilian could settle in Koidu Town.<sup>1903</sup>

1361. On return from the Koidu Geiya, Masingbi road was burnt down. The Second Accused monitored it.<sup>1904</sup> After Johnny Paul Koroma had left, the Second Accused gave an order to attack ECOMOG and burn houses, especially in the area of Masingbi Road.<sup>1905</sup> TF1-334 was present when the order was given and participated in the burning of the houses.<sup>1906</sup>

1362. Both Prosecution and Defence witnesses agree that there was burning in Koidu Town. Prosecution evidence is that the burning was done by the SLAs or those under their command while the Defence evidence purports that the burning was committed by the RUF.

1363. The Prosecution submits that according to all the evidence both the RUF and SLAs either independently or whilst working together were burning civilian property in Koidu Town.

1364. As it relates to the issue of looting in Koidu Town, Defence witness DAB-096 states that the looting in Koidu Town was done by both SLAs and RUF and that it was done under the auspices of 'Operation Pay Yourself'. The evidence clearly shows that, as for burning,

<sup>1899</sup> TF1-217, Transcript 17 October 2005, pp. 4-5

<sup>1900</sup> TF1-217, Transcript 17 October 2005, p. 7

<sup>1901</sup> TF1-217, Transcript 17 October 2005, p. 9

<sup>1902</sup> TF1-217, Transcript 17 October 2005, p. 52

<sup>1903</sup> TF1-334, Transcript 18 May 2005, p. 6

<sup>1904</sup> TF1-334, Transcript 19 May 2005, p. 10

<sup>1905</sup> TF1-334, Transcript 20 May 2005, p. 7

<sup>1906</sup> TF1-334, Transcript 20 May 2005, p. 8



looting was also carried out either independently by both the RUF and SLAs or by both of them acting together.

#### Bomboafuidu – Prosecution Evidence

1365. A rebel told TF1-206 to give him his watch. He complied. That rebel also took TF1-206's bag while another rebel put on his boots.<sup>1907</sup> From the veranda, TF1-206 saw more than 200 soldiers going into houses and bringing out valuables such as clothes, tapes, shoes and anything else of value.<sup>1908</sup>

1366. The Prosecution evidence has not been challenged by any Defence evidence and as such the Prosecution version of events must be accepted.

#### Paema Town – Prosecution Evidence

1367. At the time of the ECOMOG Intervention a group of soldiers came to Paema Town. The soldiers began taking people's property saying it was "Operation Pay Yourself." The soldiers stated that Operation Pay Yourself was because TF1-216 and others had voted for President Kabbah and that any property should be taken from them. More than one soldier used the term 'Operation Pay Yourself.' The soldiers left after taking the property.<sup>1909</sup>

1368. It is undisputed that looting and burning took place in Paema. The Prosecution submits that Savage was an SLA appointed by the Second Accused to be the battalion commander of Tombodu area which also encompassed nearby villages such as Paema. As such SLAs under the Second Accused are responsible for the crimes or both SLA and RUF working together under the joint command of Superman and Bazzy are responsible for these crimes.

#### Sewafe – Prosecution Evidence

1369. Johnny Paul Koroma ordered that Sewafe should be burned because it was a suspected Kamajor stronghold.<sup>1910</sup>

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<sup>1907</sup> TF1-206, Transcript 28 June 2005, p. 89

<sup>1908</sup> TF1-206, Transcript 28 June 2005, p. 90

<sup>1909</sup> TF1-216, Transcript 27 June 2005, pp. 79-80

<sup>1910</sup> TF1-334, Transcript 17 May 2005, p. 93

1370. DAB-122 corroborates the Prosecution position that the SLAs burned down Sewafe. The strength of this evidence lies in the fact that it was unchallenged and volunteered through DAB-122.

Others – Prosecution Evidence

1371. Other villages that were burned included, Tombodu, Yengema, Bumpe,<sup>1911</sup> Jagbwema Fiama and Yomandu.<sup>1912</sup>

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<sup>1911</sup> TF1-334, Transcript 20 May 2005, p. 8

<sup>1912</sup> TF1-334, Transcript 20 May 2005, p. 9

## **XVI. CRIMES IN KAILAHUN FROM 14 FEBRUARY 1998 UNTIL 30 JUNE 1998**

### **JOINT CRIMINAL ENTERPRISE**

1372. For all crimes committed as mentioned below occurring after the ECOMOG intervention, the three Accused are individually criminally responsible under the theory of joint criminal enterprise, in that the crimes were within the contemplation of the common enterprise or were a reasonably foreseeable consequence of its implementation. Liability pursuant to the theory of joint criminal enterprise for this period has been analysed above and this analysis applies to the crime base of Kailahun.

### **COUNTS 1 – 2**

1373. The evidentiary basis for the crimes charged in Counts 3 to 14 of the Indictment as set out below, taken as a whole, provides the evidentiary basis for the acts of terrorism charged as Count 1 and the collective punishments charged as Count 2.

### **COUNT 3-5 UNLAWFUL KILLINGS**

1374. Revolutionary United Front fighters as well as SLA members were present in Kailahun District in the period of 14 February to 30 June 1998. The members of the two factions used to work and train together.<sup>1913</sup> Following the orders of the RUF Commander Sam Bockarie alias Mosquito, RUF and SLA members went from village to village, abducting people and checking whether they were Kamajors. Approximately 67 captured individuals accused to be Kamajors were summoned and executed.<sup>1914</sup> The persons that killed the abducted civilians were RUF and AFRC/SLA.<sup>1915</sup>

1375. The Prosecution submits that further evidence of killings was given by Prosecution witness TF1-122, who learned from conversation with displaced persons from Segbwema in the District of Kailahun that the AFRC and RUF had attacked and overrun Segbwema,

<sup>1913</sup> TF1-113, Transcript 18 July 2005, pp. 80 - 81

<sup>1914</sup> TF1-113, Transcript 18 July 2005, pp. 84-85 and pp. 90, 119-120

<sup>1915</sup> TF1-113, Transcript 18 July 2005, pp. 115-116

killing civilians and capturing many able-bodied women who were then forced to carry the AFRC and RUF loot to their headquarters in Kailahun.<sup>1916</sup>

1376. Evidence of unlawful killings in Kailahun was also provided in the testimony of Defence witnesses, mainly Defence witness DAB-140, who albeit not present in Buedu during the killings of the 67 civilians, heard that Mosquito had given such an order and that these civilians were killed.<sup>1917</sup> Moreover, this witness testified that his own daughter was left for dead and thrown in a pit with three other corpses.<sup>1918</sup> This witness heard of many more killings in Buedu committed by Mosquito and his men, including two civilians who refused to carry iron sheets for the rebels.<sup>1919</sup>

1377. In addition, Defence witness DAB-142 saw the corpses of the civilians accused of being Kamajors, and knows that Mosquito gave the order for their killing,<sup>1920</sup> and witness DAB-147 was present when Sam Bockarie alias Mosquito killed the alleged Kamajors.<sup>1921</sup>

#### COUNTS 6 – 9 RAPE AND SEXUAL VIOLENCE

1378. Prosecution witness TF1-114 testified that while working as a military police adjutant in Kailahun District, he received numerous complaints that AFRC / SLA soldiers had raped women and tried to force them into marriage. No Junta commander ever stopped the practice nor did anything to prevent these attacks.<sup>1922</sup> The evidence of Zainab Bangura is also that forced marriage was practiced in Kailahun.<sup>1923</sup>

1379. The Prosecution submits that reports of rape in Kailahun in late 1998, after ‘Operation Spare No Soul’ was declared by the RUF, were led in evidence. Targets that were to be captured and taken control of were identified in the Kailahun axis, including Segbwema, Daru and Bunumbu. Witness TF1-045 testified about the killing of civilians, raping of

<sup>1916</sup> TF1-122, Transcript 24 June 2005, pp. 76-77

<sup>1917</sup> DAB-140, Transcript 19 September 2006, p. 94-95

<sup>1918</sup> DAB-140, Transcript 19 September 2006, pp. 81-83

<sup>1919</sup> DAB-140, Transcript 19 September 2006, pp. 84-86

<sup>1920</sup> DAB-142, Transcript 19 September 2006, p. 35-36

<sup>1921</sup> DAB-147, Transcript 3 October 2006, p. 47

<sup>1922</sup> TF1-114, Transcript 14 July 2005, pp. 128-131

<sup>1923</sup> Zainab Bangura, Transcripts 3 2005, pp. 14.-16 and 4 October 2005, p. 38.

women and looting and burning of houses.<sup>1924</sup>

1380. Regarding the identity of the perpetrators of the acts of sexual violence, the evidence of Prosecution witness TF1-081 confirms that all of the girls treated were abducted by the RUF/AFRC which was clear from the Forum for African Women Educationalists (“FAWE”) registration program<sup>1925</sup> and from what the patients themselves stated.<sup>1926</sup> The witness stated that 684 victims of sexual abuse were treated and of these 200 were treated for pregnancies.<sup>1927</sup> The Prosecution notes that this evidence is also relevant to establishing the widespread and systematic nature of the attack by the Junta forces upon the civilian population.

1381. Defence witness DAB-140 also testified that his 12-year-old daughter was raped and thrown in a pit and left for dead by the rebels in Kailahun. Witness saw three more corpses put into the pit which he was told were also raped.<sup>1928</sup> Wives of the residents of Buedu Town were abducted from their homes at night by Mosquito’s men and taken away never to be seen again.<sup>1929</sup> Another Defence witness, DAB-142, was herself a victim of sexual violence and was forced, against her wish, to be the wife of the Paramount Chief in Buedu.<sup>1930</sup>

### COUNT 13 ABDUCTIONS AND FORCED LABOUR

1382. The evidence led by the Prosecution displays the Junta’s *modus operandi* whereby villages were attacked and civilians, once abducted, were forced to become fighters, and/or carry goods, and/or perform domestic tasks.<sup>1931</sup>

1383. The Prosecution submits that there is evidence of the movement of the rebels from village to village, capturing people and checking them for Kamajors. On the orders of Sam Bockarie alias Mosquito, captured civilians, among which children, arrived in Kailahun

<sup>1924</sup> TF1-045, TT 22 July 2005, pp. 22-25.

<sup>1925</sup> TF1-081, Transcript 4 July 2005, Closed session, p. 29.

<sup>1926</sup> TF1-081, Transcript 4 July 2005, Closed session, pp. 10-11.

<sup>1927</sup> TF1-081, Transcript 4 July 2005, Closed session, p. 17 and Exhibit P25 – Under seal.

<sup>1928</sup> DAB-140, Transcript 19 September 2006, p. 81-83

<sup>1929</sup> DAB-140, Transcript 19 September 2006, p. 86

<sup>1930</sup> DAB-142, Transcript 19 September 2006, p. 20-21

<sup>1931</sup> TF1-113, Transcript 18 July 2005, p. 86; Zainab Bangura, Transcript 3 October 2005, pp. 34-36.

District and were witnessed carrying loads.<sup>1932</sup>

1384. Prosecution witness TF1-114 also testified that civilians were forced to work in Kailahun district, constructing roads, on farms and carrying loads for commanders.<sup>1933</sup> Working as a military police adjutant for the RUF, TF1-114 was responsible for registering the civilians forced to labour and to hand them out passes for locations. When TF1-114 raised his concerns that the human rights of these civilians were violated by forcing them to work without pay, he was told that the civilians are there to do government work. In fact, the witness himself was forced to work for no pay.<sup>1934</sup>

1385. The Prosecution charge of abductions and forced labour committed in Kailahun is supported by the testimony of Defence witnesses. Defence witness DAB-140 testified of being subjected to forced labour during the period of February to June 1998 by Mosquito in Kailahun.<sup>1935</sup> During his ordeal DAB-140 was forced into submission and obedience by threats of death and beating, as well as burning of the town.<sup>1936</sup> DAB-140 also testified that civilians had to carry corrugated iron sheets to Liberia, and would be killed if they refused to do so.<sup>1937</sup>

1386. Defence witness DAB-142 testified about the abducted people she saw brought by the RUF and SLA soldiers on their arrival in Kailahun after the ECOMOG Intervention in Freetown,<sup>1938</sup> while DAB-135 was forced to go to Kailahun with the rebels, carrying loads for them and was made to do other arduous work, while being given very little food.<sup>1939</sup> This witness also gave evidence of the killing, abductions and burning he witnessed on his way to Kailahun.<sup>1940</sup> Further evidence of killings, abductions, forced labour and burning was given by Defence witness DAB-131.<sup>1941</sup>

1387. The only Defence witness who denied hearing of or witnessing killings, rapes and forced marriages of civilians is DAB-143, who none the less gave evidence of being subjected to

<sup>1932</sup> TF1-113, Transcript 18 July 2005, pp. 70-71, 86.

<sup>1933</sup> TF1-114, Transcript 14 July 2005, pp. 129-130

<sup>1934</sup> TF1-114, Transcript 18 July 2005, p. 60 and pp. 19-20

<sup>1935</sup> DAB-140, Transcript 19 September 2006, pp. 69-70

<sup>1936</sup> DAB-140, Transcript 19 September 2006, pp. 90-92.

<sup>1937</sup> DAB-140, Transcript 19 September 2006, pp. 85-86

<sup>1938</sup> DAB-142, Transcript 19 September 2006, p. 29

<sup>1939</sup> DAB-135, Transcript 11 September 2006, pp. 47-49

<sup>1940</sup> DAB-135, Transcript 11 September 2006, pp. 49-50

<sup>1941</sup> DAB-131, Transcript 14 September 2006, p. 44

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forced labour.<sup>1942</sup>

#### **COUNT 14 LOOTING AND BURNING**

1388. The Prosecution notes that Kailahun District has not been pleaded as part of Count 14.

The evidence of Witness TF1-045 is that when the radio reported that ECOMOG had evicted the AFRC from Freetown, Mosquito said it was 'Operation Pay Yourself'. Kenema was looted and captured civilians were put in looted vehicles and driven to Daru.<sup>1943</sup>

1389. The repetition of the 'Operation Pay Yourself' in various parts of Sierra Leone, coupled with Johnny Paul Koroma's announcement and subsequent orders indicate that it can be inferred that the First Accused had knowledge of the Junta troop's involvement in looting. Equally, it is submitted that it was reasonably foreseeable that looting would be carried out by Junta soldiers in the jungle.

1390. This evidence is relevant to prove that the AFRC were terrorising the civilian population and collectively punishing the civilian population for supporting others or failing to provide sufficient support to them (AFRC).

#### **ROLE OF THE ACCUSED**

##### **Brima**

1391. The First Accused Alex Tamba Brima claims that he was under arrest by the RUF in Kailahun from February to July 1998,<sup>1944</sup> and that Kailahun District was under RUF control, particularly that of Mosquito.<sup>1945</sup>

1392. Prosecution witness TF1-334 testified that at a meeting called at 55 spot he heard the explanation of the First Accused about what had occurred in Kailahun, in which the First Accused informed the other SLA commanders that although he and Johnny Paul Koroma

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<sup>1942</sup> DAB-143, Transcript 19 September 2006, p.57

<sup>1943</sup> TF1-045, Transcript 19 July 2005, pp. 82-83 and 21 July 2005, p. 37.

<sup>1944</sup> Accused Alex Tamba Brima, Transcript 12 June 2006, p. 24

<sup>1945</sup> Accused Alex Tamba Brima, Transcript 8 June 2006, p. 50.

were under threat and beaten by Mosquito, he had used a problem in Koidu he heard of, as an excuse to leave Kailahun and come down to Kono.<sup>1946</sup>

1393. The First Accused also informed the SLA commanders including the Second Accused, that Mosquito had taken away his diamonds.<sup>1947</sup> TF1-334 denied that at a second meeting held at Mongor Bendugu around May 1998 the First Accused explained that he and Johnny Paul Koroma had been detained from March 1998 to July 1998 by Mosquito in Kailahun. Rather, the First Accused said that Johnny Paul Koroma was under duress in Kailahun.<sup>1948</sup>

1394. TF1-334 also gave evidence that the First Accused came to Kono from Kailahun around mid-May 1998 bringing rice and alcohol,<sup>1949</sup> as well as that the First Accused was in Mansofinia at around the end of May 1998.<sup>1950</sup>

1395. As mentioned earlier in this brief the Prosecution accepts that the First Accused was under detention for a short period of time in mid February 1998 when the diamonds he was trying to steal were forcefully taken from him by the RUF. Thereafter it is the case of the Prosecution that the First Accused was a free man in Kailahun enjoying cordial relations with the RUF leadership in Kailahun. If his position was otherwise it would not have been possible for him to arrive in Kono with logistics from Mosquito for the joint RUF /SLA force based in Kono.

1396. As mentioned earlier in this brief the First Accused has lied throughout large parts of his evidence and his evidence of being detained and maltreated in Kailahun by the RUF from mid-February to July should be rejected in its entirety. There is overwhelming credible Prosecution evidence that the First Accused arrived in Kono by end of April or early May at the latest.<sup>1951</sup> The only reasonable inference is that the First Accused was still working with the RUF in Kailahun. There is no other way that he could have left Kailahun with logistics which were to be given to the joint SLA/ RUF forces in Kono.

<sup>1946</sup> TF1-334, Transcript 19 May 2005, p. 14.

<sup>1947</sup> TF1-334, Transcript 19 May 2005, pp. 12-15

<sup>1948</sup> TF1-334, Transcript 17 June 2005, pp. 45-46

<sup>1949</sup> TF1-334, Transcript 20 May 2005, p. 27 and p. 51

<sup>1950</sup> TF1-334, Transcript 17 June 2005, p. 52

<sup>1951</sup> TF1-334, Transcript of 19 May 2005, pp. 7-8, Transcript of 17 June 2005 pp. 46-47, Transcript of 20 May 2005, p.27.



## Kamara

1397. Although the Second Accused was not physically present when the crimes were committed in Kailahun District, during the relevant period the Second Accused held a significant position in the AFRC/RUF Junta and remained in a leadership and/or command position within the AFRC after the Intervention.
1398. The Second Accused was the most senior SLA commander in Kono in the period after the Intervention in Freetown in 1998 and was directly below RUF leader Denis Mingo, aka Superman.<sup>1952</sup> On the arrival of the First Accused around the end of April early May the Second Accused became second in command to the First Accused in the SLA chain of command in Kono.<sup>1953</sup> The Second Accused through his contacts with Superman and the radio communications from Sam Bockarie in Kailahun knew full well that the SLAs and RUF were working with the RUF in Kailahun to achieve common aims. In fact, Kailahun was the supply line to Kono.
1399. Furthermore, Prosecution witness TF1-334 testified that he personally witnessed two communications between Superman and the Second Accused in Kono and Sam Bockarie in Kailahun, during which Mosquito informed them that he is sending arms and ammunitions to the RUF and SLA in Kono, and gave several orders for attacks including one on the Sewafe Bridge.<sup>1954</sup>
1400. These arms and ammunition were collected by a joint RUF/SLA force<sup>1955</sup> and a joint SLA/RUF force in compliance with Mosquito's orders attempted to make the Sewafe Bridge impassable.<sup>1956</sup> There is overwhelming evidence that the SLAs and RUF were acting jointly in Kailahun and throughout Sierra Leone immediately after the Intervention.
1401. For example, the RUF and SLA factions established strategic defensive positions in furtherance of their joint plan which was made just after the Intervention and articulated by SAJ Musa at Kabala with the RUF leadership<sup>1957</sup> and later announced by Johnny Paul Koroma at Makeni. This plan was to make a stronghold in the diamond rich Kono area

<sup>1952</sup> TF1-334, Transcript 18 May 2005, pp. 21-24

<sup>1953</sup> TF1-334, Transcript of 19 May 2005, p. 8.

<sup>1954</sup> TF1-334, Transcript 18 May 2005, pp. 29-33

<sup>1955</sup> TF1-334, Transcript 20 May 2005, 44-47.

<sup>1956</sup> TF1-334, Transcript 20 May 2005, 51-53.

<sup>1957</sup> TF1-334, Transcript 17 May 2005, pp. 82-83.

from which mineral they would be able to fund their movement.<sup>1958</sup>

1402. Thus, after the Intervention, the Second Accused and Superman were in command of establishing and maintaining defensive positions around Kono to protect it from any ECOMOG advance from the West<sup>1959</sup> whilst SAJ Musa was based in the Koinadugu axis in order to protect Kono from any ECOMOG advance from the North. The defensive position adopted in Kono also led to securing Kailahun and ensured that the Kailahun to Kono supply line was kept open.

1403. Although the RUF and SLA after the Intervention worked under two separate chains of command, akin to how the allies worked during WWII, the evidence shows that there is no doubt that they continued to work together notwithstanding an initial leadership struggle between Sam Bockarie and Johnny Paul Koroma once Johnny Paul Koroma reached Kailahun.

1404. After the Intervention the evidence suggests that there may also have been antagonism between the two factions especially when Johnny Paul Koroma ordered that in the jungle the SLAs were to take orders from the RUF. The Prosecution submits, however, that this difficulty was overcome through the use of two separate chains of command whereby the SLA soldiers did not have to take orders from the RUF.<sup>1960</sup> The joint planning instead was done at the SLA/RUF leadership level and passed down through the respective chains of command by their respective commanders.

1405. A prime example of the operation of the above scenario was in Kono after the Intervention where the Second Accused represented the SLAs as the SLA commander in meetings with Superman and Superman as RUF commander represented the RUF. Following such meetings between the two commanders joint operations were planned and organized and orders for these were passed down by each commander through his respective chain of command.

<sup>1958</sup> TF1-334, Transcript 17 May 2005, p. 87.

<sup>1959</sup> TF1-334, Transcript 18 May 2005, p. 21.

<sup>1960</sup> TF1-167, Transcript 15 September 2005, p. 33.

## Kanu

1406. The Prosecution submits that during the period following the ECOMOG Intervention the Third Accused continued to hold a senior leadership position as evidenced by him being used by SAJ Musa to shuttle back and forth between Koinadugu District and Kono acting as an information bridge between the two factions in Koinadugu and Kono. Further evidence of the senior leadership position which the Third Accused held is his appointment by the First Accused as Chief of Staff in Mansofinia shortly after the SLAs had withdrawn from Kono.
1407. The Prosecution submits that as a senior leadership figure within the AFRC the Third Accused participated in the joint criminal enterprise as pleaded in the Indictment and as such bears criminal responsibility for the unlawful killings, rapes and abductions which were committed by members of the AFRC/RUF in the District of Kailahun.

## CONCLUSION

1408. The Prosecution submits that the SLAs and RUF continued to work together after the Intervention with the shared intent of returning to Freetown and reinstating the Junta.
1409. This JCE continued in Kailahun after the Intervention and as such the Accused are all liable for the aforementioned crimes in Kailahun (unlawful killings, rape and sexual violence, physical violence, abductions and forced labour the use of child soldiers and looting and burning) on account of these crimes being a part of the JCE or there commission was a reasonably foreseeable consequence of the JCE.
1410. The crimes of physical violence and looting and burning although not specifically charged in the Indictment for Kailahun are relied upon as evidence for the crimes of Terrorism (Count 1) and Collective Punishment (Count 2).

## **XVII. CRIMES IN KOINADUGU FROM 14 FEBRUARY UNTIL 30 SEPTEMBER 1998**

### **JOINT CRIMINAL ENTERPRISE**

1411. For all crimes committed as mentioned below occurring after the ECOMOG intervention, the three Accused are individually criminally responsible under the theory of joint criminal enterprise, in that the crimes were within the contemplation of the common enterprise or were a reasonably foreseeable consequence of its implementation. Liability pursuant to the theory of joint criminal enterprise for this period has been analysed above and this analysis applies to the crime base of Koinadugu.

### **INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 6(1)**

#### *Planning, Instigating, Ordering or otherwise Aiding and Abetting*

1412. The Prosecution submits that the three Accused are liable for planning and instigating or otherwise aiding and abetting the crimes committed in Koinadugu. These crimes followed a consistent pattern and included killings, burning and sexual violence as had systematically occurred in other districts as the SLA/RUF forces attacked civilians for either supporting ECOMOG or failing to support them. In particular, in the village of Yiffin, there is evidence that all three Accused were present and the First Accused gave a direct order for the village to be burnt.<sup>1961</sup> The attacks on Yiffin and other villages, all in close proximity to each other, were carefully designed and organized by the three Accused, who intended that the crimes charged would occur, or were aware of the substantial likelihood of the occurrence of all of these crimes. Moreover, these acts or threats of violence were committed with the primary purpose of spreading terror amongst civilians and punishing them collectively for their failure to support the AFRC/RUF. As witness TF1-310 testified, an order was made for everyone in the village to be killed since

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<sup>1961</sup> TF1-153 testified that the Second Accused was one of the commanders and TF1-033 also testified that all three Accused entered Yiffin with the troops, TF1-153, Transcript 22 September 2005, p. 32; TF1-033, Transcript 11 July 2005, pp. 15-16.

the Chief had called ECOMOG.<sup>1962</sup> “Operation Pay Yourself” was written on the wall of a house in Yiffin,<sup>1963</sup> inciting troops to loot the property of civilians and as a sinister reminder of the policies in force that the three Accused were actively implementing.

1413. In addition, the Accused prompted others to commit these offences and are therefore liable for instigating. Alternatively, the Accused are liable for aiding and abetting the crimes, as there can be no doubt that they were aware of the fact that their actions or omissions would assist the direct perpetrators in the commission of the crimes. Similarly, the Accused knew that it was a policy to eliminate all opposition to the AFRC/RUF and actively encouraged this policy.

#### **SUPERIOR RESPONSIBILITY UNDER ARTICLE 6(3)**

1414. The Prosecution submits that, due to the evidence mentioned in the Bombali section, the three Accused were respectively first, second and third in command from Mansofinia to Bombali and that Yiffin was attacked by the Accused on the way to Camp Rosos. During the attack on Yiffin the Accused bore superior criminal responsibility under Article 6(3) of the Statute for planning, instigating, ordering and aiding and abetting the attacks and all the crimes committed by their subordinates in the village of Yiffin as mentioned below.

1415. The Prosecution submits that the evidence shows that there was a superior-subordinate relationship between the Accused and the perpetrators, who in most cases were carrying out the orders of the Accused, which resulted in the commission of the crimes in Yiffin. Based on the fact that in most cases the orders to commit crimes were given to the Accused’s subordinates by them or in their presence, for instance to kill collaborators, burn villages, to amputate the arms of civilians, the Accused either knew or at the very least had reason to know that the subordinate was about to commit the offence or had done so.

1416. The Accused, despite being in a position to take necessary and reasonable measures to prevent or punish the perpetrators, failed to do so. The obvious reason being that the perpetrators were acting on the orders of the Accused (either express or implied).

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<sup>1962</sup> TF1-310, Transcript 5 July 2005, p. 70.

<sup>1963</sup> DAB-092, Transcript 8 September 2006, p. 36.

1417. Furthermore, as the evidence of the crimes mentioned below clearly demonstrates, the Accused, in some cases, all incur personal liability for some of the crimes which they physically committed themselves.

**EVIDENCE THAT THE ACCUSED LED THE ADVANCE PARTY FROM MANSOFINIA TO FIND A BASE CAMP IN THE NORTH PURSUANT TO SAJ MUSA'S ORDERS**

Kurubonla

1418. In around mid-February 1998, after the Intervention, SAJ Musa initially remained in the Koinadugu District, with the Third Accused, whilst Johnny Paul Koroma went to Kailahun. The Second Accused had gone to Kono with Superman. Around April/May, the First Accused returned to Kono from Kailahun, taking over command of the Second Accused. The First Accused then led the SLA troops out of Kono to Mansofinia.

1419. At Kurubonla, SAJ Musa held a muster parade <sup>1964</sup> attended by the Third Accused as well as Colonel Tee and STF commander Bropleh. <sup>1965</sup> He told the troops that they should regroup and fight back against ECOMOG to Freetown. <sup>1966</sup> Later, the First Accused arrived through Mansofinia. <sup>1967</sup> TF1-184 described the First Accused as the senior man of the group that arrived. <sup>1968</sup> SAJ Musa told the First Accused that Brigadier Mani had gone to the north and instructed the First Accused, and the troops he had, to find Brigadier Mani and set up a base in the north. <sup>1969</sup> SAJ Musa instructed the Third Accused to join the group, with some extra manpower. <sup>1970</sup> The First Accused later radioed telling Brigadier Mani to tell him that he was looking for him. <sup>1971</sup>

<sup>1964</sup> TF1-184, Transcript 27 September 2005, pp. 12-14 and DAB-095, Transcript 20 September 2006, p. 48.

<sup>1965</sup> TF1-184, Transcript 27 September 2005, pp. 12-14; TF1-334, Transcript 16 June 2005, pp. 76-77; DAB-096, Transcript 18 September 2006, p. 102; DBK-131, Transcript 10 October 2006, pp. 30-31.

<sup>1966</sup> TF1-184, Transcript 27 September 2005, p. 15; DAB-033, Transcript 25 September 2006, p. 90.

<sup>1967</sup> TF1-184, Transcript 29 September 2005, p. 29.

<sup>1968</sup> TF1-184, Transcript 27 September 2005, p. 20-21.

<sup>1969</sup> TF1-334, Transcript 20 May 2005, p. 86 and TF1-184, Transcript 29 September 2005, p. 29 and TF1-167, Transcript 15 September 2005, pp. 47-48; Transcript 19 September 2005, p. 44. SAJ Musa told TF1-153 about this when they were in Koinadugu Town, TF1-153, Transcript 22 September 2005, p. 57. DBK-012 testified that he moved with Brigadier Mani to Batkanu in Bombali District, Transcript 5 October 2006, p. 98. This corroborates TF1-334's evidence of Brigadier Mani's position. When DBK-012 returned to Kurubonla later, he testified that he heard that SAJ Musa sent an advance team to the north to find a base, Transcript 5 October 2006, p. 105.

<sup>1970</sup> TF1-184, Transcript 27 September 2005, pp. 20-21 and TF1-334, Transcript 20 May 2005, pp. 85-86.

<sup>1971</sup> TF1-334, Transcript 24 May 2005, pp. 40-41.

1420. The Prosecution submits that the evidence of Defence Witnesses relating to the advance party to the north should not be believed for the following reasons: (a) DAB-033 stated that the commanders of the advance party to the north were FAT Sesay, George Johnson and Eddie.<sup>1972</sup> The advance party had already left when DAB-033 arrived in Kurubonla, and he was only told.<sup>1973</sup> DAB-095 contradicts this evidence and that of the First Accused<sup>1974</sup> when he states that Eddie was the commander of the advance team, and that he left with George Johnson and Commander 0-Five.<sup>1975</sup> This witness who is a cousin of the First Accused, is lying on his behalf; (b) DBK-012 testified that he did not see the First or Second Accused in Kurubonla,<sup>1976</sup> It is the Prosecution case that the First and Second Accused were not in Kurubonla when DBK-012 was there, as he left Mongo Bendugu for the north,<sup>1977</sup> and did not return to Kurubonla until after the First and Second Accused had been sent to find a base.<sup>1978</sup> The Prosecution further submits that DBK-012 lied in claiming that he heard that FAT Sesay was the first in command of the advance troops that SAJ Musa sent, because he is or recently was in a relationship with the sister of the Second Accused<sup>1979</sup> and also because an attorney of the Second Accused represented and helped him out of Pademba Road Prison;<sup>1980</sup> (c) DAB-156 lied when she denied that the Accused were in Kurubonla when she was there and denied their being commanders of the advance troops,<sup>1981</sup> saying that George Johnson led the group.<sup>1982</sup> She testified that she came to Kurubonla with George Johnson and that George Johnson then left with the advance team from Kurubonla,<sup>1983</sup> yet George Johnson never went to Kurubonla. He stayed in Mansofinia while the First and Second Accused went to Kurubonla,<sup>1984</sup> (d) DBK-037 lied when he testified that SAJ Musa appointed FAT Sesay to head the advance

<sup>1972</sup> DAB-033, Transcript 25 September 2006, pp. 55-56.

<sup>1973</sup> DAB-033, Transcript 2 October 2006, pp. 79-80.

<sup>1974</sup> Accused Alex Tamba Brima, Transcript 13 June 2006, pp. 6-7.

<sup>1975</sup> DAB-095, Transcript 20 September 2006, p. 56-58.

<sup>1976</sup> DBK-012, Transcript 5 October 2006, p. 103 and Transcript 9 October 2006, pp. 11-12.

<sup>1977</sup> DBK-012, Transcript 5 October 2006, pp. 95-96.

<sup>1978</sup> DBK-012, Transcript 5 October 2006, p. 105.

<sup>1979</sup> DBK-012, Transcript 18 October 2006, pp. 84-85.

<sup>1980</sup> DBK-012, Transcript 18 October 2006, p. 83.

<sup>1981</sup> DAB-156, Transcript 29 September 2006, pp. 78-79.

<sup>1982</sup> DAB-156, Transcript 29 September 2006, p. 49.

<sup>1983</sup> DAB-156, Transcript 29 September 2006, p. 46, 50.

<sup>1984</sup> TF1-167, Transcript 15 September 2005, pp. 47-48.

team.<sup>1985</sup> There is an abundance of evidence that FAT Sesay was the brigade administrative officer,<sup>1986</sup> and not a commander of any advance team; (e) The Prosecution submits that DAB-033, DAB-095, and DBK-012 all arrived in Kurubonla after the team had left, and just heard about it and the commanders when they arrived.<sup>1987</sup> DAB-156 only heard about the advance team from her “husband” at the time, and then did not know about the commanders.<sup>1988</sup> DBK-037 testified that he was in Kurubonla at the time, and did go with the advance team.<sup>1989</sup> However, he testified that they left straight from Kurubonla to the north,<sup>1990</sup> though there is an abundance of evidence that they left from Mansofinia.<sup>1991</sup>

1421. TF1-184 was with SAJ Musa the entire period in Koinadugu District.<sup>1992</sup> He testified that it was the First and Second Accused that came to meet SAJ Musa from Mansofinia, and SAJ Musa ordered them to find a base.<sup>1993</sup> TF1-334 was part of the group that came up from Mansofinia and was present when SAJ Musa ordered the Accused to move to the north.<sup>1994</sup> TF1-167 also testified that the First and Second Accused met SAJ Musa who ordered them to find a base.<sup>1995</sup> TF1-334 and TF1-167 were both part of the advance team that left.<sup>1996</sup> Since these witnesses were present and held positions close to the Accused, their testimony should be given more weight than the testimony of the Defence witnesses whose knowledge came from hearsay.

<sup>1985</sup> DBK-037, Transcript 3 October 2006, p. 94.

<sup>1986</sup> TF1-334, Transcript 23 May 2005, p. 32 and TF1-046, Transcript 7 October 2005, p. 115 and TF1-184, Transcript 27 September 2005, pp. 58-59 and TF1-167, Transcript 15 September 2005, p. 41. This is corroborated by DAB-095, Transcript 20 September 2006, pp. 55-56.

<sup>1987</sup> DAB-033, Transcript 25 September 2006, p. 56; DAB-095, Transcript 20 September 2006, pp. 56-58

<sup>1988</sup> DAB-156, Transcript 29 September 2006, pp. 78-79.

<sup>1989</sup> DBK-037, Transcript 3 October 2006, pp. 94-95.

<sup>1990</sup> DBK-037, Transcript 4 October 2006, p. 69.

<sup>1991</sup> TF1-334, Transcript 23 May 2005, p. 39 and TF1-167, Transcript 15 September 2005, p. 51.

<sup>1992</sup> It should be noted that DAB-096 testified that he saw Alabama in Kurubonla during this time, DAB-096, Transcript 18 September 2006, pp. 102-103.

<sup>1993</sup> TF1-184, Transcript 27 September 2005, pp. 19-21.

<sup>1994</sup> TF1-334, Transcript 20 May 2005, pp. 86-87.

<sup>1995</sup> TF1-167, Transcript 15 September 2005, pp. 47-48.

<sup>1996</sup> TF1-334, Transcript 23 May 2005, p. 39 and TF1-167, Transcript 15 September 2005, p. 51. A number of Defence witnesses also put TF1-167 in the advance team including DAB-033, Transcript 25 September 2006, pp. 55-56; DAB-095, Transcript 20 September 2006, pp. 56-58; DAB-156, Transcript 29 September 2006, p. 49; DBK-131, Transcript 10 October 2006, p. 44.



Yiffin

1422. When the Accused left Kurubonla they returned to Mansofinia and set off for the North via Yiffin. Around April 1998, the First Accused moved from Yarya into Yiffin with the Second and Third Accused and other troops under their command.<sup>1997</sup> TF1-153 testified that one of the commanders in Yiffin was Bazzy.<sup>1998</sup> When they arrived in Yiffin, the First Accused ordered that the town be burnt and civilians killed.<sup>1999</sup> DAB-090 testified that he did not hear of the three Accused as the ones responsible for the attack on Yiffin.<sup>2000</sup> However, during the first attack, this witness had left the village.<sup>2001</sup>

1423. TF1-153 testified that about 90% of the attackers were uniformed AFRC soldiers.<sup>2002</sup> TF1-310 testified that she saw a soldier in military uniform during the attack.<sup>2003</sup> DAB-092 testified that the attackers were a mixed force of RUF and SLAs.<sup>2004</sup> DAB-090 and DAB-086 testified that the rebels that attacked Yiffin were wearing both civilian clothes and military combats.<sup>2005</sup> DAB-087 testified that he did not see SLA soldiers with the rebels who attacked Yiffin.<sup>2006</sup> However, when they came to town, this witness ran and hid in the bush so would not have been in a position to see anything.<sup>2007</sup>

1424. Numerous crimes were committed throughout Yiffin, including killing.<sup>2008</sup> DAB-086 testified that when he returned to town, he found that people had been killed.<sup>2009</sup> He testified that he saw more than thirty people dead.<sup>2010</sup> DAB-090 found two corpses when he returned, including his child.<sup>2011</sup> DAB-092 also testified to finding corpses in Yiffin when he returned from hiding.<sup>2012</sup>

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<sup>1997</sup> TF1-033, Transcript 11 July 2005, pp. 15-16.

<sup>1998</sup> TF1-153, Transcript 22 September 2005, p. 32.

<sup>1999</sup> TF1-033, Transcript 11 July 2005, pp. 15-16.

<sup>2000</sup> DAB-090, Transcript 24 July 2006, pp. 106-107.

<sup>2001</sup> DAB-090, Transcript 24 July 2006, p. 75.

<sup>2002</sup> TF1-153, Transcript 22 September 2005, pp. 32-33.

<sup>2003</sup> TF1-310, Transcript 5 July 2005, pp. 65-66.

<sup>2004</sup> DAB-092, Transcript 8 September 2006, p. 35.

<sup>2005</sup> DAB-090, Transcript 24 July 2006, p. 77 and DAB-086, Transcript 25 July 2006, p. 7.

<sup>2006</sup> DAB-087, Transcript 25 July 2006, pp. 65-66.

<sup>2007</sup> DAB-087, Transcript 25 July 2006, p. 42.

<sup>2008</sup> TF1-033, Transcript 11 July 2005, p. 16.

<sup>2009</sup> DAB-086, Transcript 25 July 2006, p. 16.

<sup>2010</sup> DAB-086, Transcript 25 July 2006, p. 20.

<sup>2011</sup> DAB-090, Transcript 24 July 2006, p. 80-81.

<sup>2012</sup> DAB-092, Transcript 8 September 2006, p. 33.

1425. TF1-310 testified that she was returning from her farm to Yiffin when she heard gunshots. She met a man in military uniform who told her and others to enter a house. The man said he was there to protect them.<sup>2013</sup> When there were many people in the house, they were all shot at through the windows.<sup>2014</sup> When the shooting was done, the house and those inside were torched.<sup>2015</sup>
1426. DAB-087 testified that when he returned to the village, he found people burnt inside a thatch house by the rebels.<sup>2016</sup> Later, when the loyal SLAs finally took the skeletons out to bury them, the witness counted 24 people in the house.<sup>2017</sup>
1427. TF1-310 testified that when she escaped, she overheard someone ordering that everyone be killed since the chief of Yiffin had called ECOMOG.<sup>2018</sup> DAB-087 corroborates this story. He testified that the chief sent a message to ECOMOG when word arrived that the rebels had burned Kulaya.<sup>2019</sup>
1428. TF1-272 described patients coming from Yiffin in early May 1998. She was told by a number of patients that the soldiers told them to come out of their homes, as these soldiers were there to protect them. Instead, the people would be mutilated.<sup>2020</sup> This is the same tactic that TF1-310 described.<sup>2021</sup>
1429. Looting occurred during the attack on Yiffin.<sup>2022</sup> TF1-153 described how soldiers looted the shop of a handicapped man called Stevo, under Operation Pay Yourself.<sup>2023</sup> This version of events was reinforced by DAB-092, the very person TF1-153 described.<sup>2024</sup>

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<sup>2013</sup> TF1-310, Transcript 5 July 2005, p. 66. *See also* Exhibit P57, No Peace Without Justice Report, 10 March 2004, p. 174.

<sup>2014</sup> TF1-310, Transcript 5 July 2005, p. 74.

<sup>2015</sup> TF1-310, Transcript 5 July 2005, Closed session, pp. 70-71.

<sup>2016</sup> DAB-087, Transcript 25 July 2006, p. 47.

<sup>2017</sup> DAB-087, Transcript 25 July 2006, p. 65.

<sup>2018</sup> TF1-310, Transcript 5 July 2005, Closed session, p. 70.

<sup>2019</sup> DAB-087, Transcript 25 July 2006, p. 43.

<sup>2020</sup> TF1-272, Transcript 4 July 2005, p. 52.

<sup>2021</sup> TF1-310, Transcript 5 July 2005, p. 66.

<sup>2022</sup> DAB-086, Transcript 25 July 2006, p. 22.

<sup>2023</sup> TF1-153, Transcript 22 September 2005, p. 33.

<sup>2024</sup> Exhibit D25 [confidential and under seal].

DAB-092 testified that his shop was burned.<sup>2025</sup> DAB-092 also testified that he saw the words, “Operation Pay Yourself” written on the wall of a house in town.<sup>2026</sup>

1430. The houses in Yiffin were burnt.<sup>2027</sup> DAB-090 testified that he witnessed a rebel boy in military combats set fire to a house with a torch.<sup>2028</sup> It was the “younger ones” that set the houses on fire. They were wearing military uniforms.<sup>2029</sup>

1431. DAB-087 testified that when he returned to Yiffin, he found that only five houses in the town were *not* burnt.<sup>2030</sup> DAB-090 testified that the only two buildings spared from burning were the mosque and the church.<sup>2031</sup> DAB-086 testified that when he saw smoke from the hills surrounding the town. When he returned, he found all their houses had been burnt. The EU assisted them with rebuilding 133 houses in Yiffin.<sup>2032</sup>

1432. DAB-087 testified that before the Yiffin attack, a small village called Kulaya was burnt.<sup>2033</sup>

1433. Rapes occurred during the attack on Yiffin.<sup>2034</sup> TF1-153 was staying with the Chief of Yiffin when the attack occurred.<sup>2035</sup> He was present when a woman complained to the chief about soldiers raping her three children. The chief brought the complaint to the attention of Bazy.<sup>2036</sup>

1434. A number of Defence witnesses testified that the people responsible for the attack on Yiffin included a rebel called High Firing.<sup>2037</sup> It is the submission of the Prosecution that there was a second attack on Yiffin. The first attack is described above, and was led by the Accused. The Second attack was committed by High Firing, who stayed in the region. As is clear from DAB-090’s testimony, most of the crimes were committed during the first

<sup>2025</sup> DAB-092, Transcript 8 September 2006, pp. 30-32.

<sup>2026</sup> DAB-092, Transcript 8 September 2006, p. 36.

<sup>2027</sup> TF1-033, Transcript 11 July 2005, p. 16.

<sup>2028</sup> DAB-090, Transcript 24 July 2006, p. 78.

<sup>2029</sup> DAB-090, Transcript 24 July 2006, pp. 111-112.

<sup>2030</sup> DAB-087, Transcript 25 July 2006, pp. 47-48.

<sup>2031</sup> DAB-090, Transcript 24 July 2006, p. 84.

<sup>2032</sup> DAB-086, Transcript 25 July 2006, p. 16-17.

<sup>2033</sup> DAB-087, Transcript 25 July 2006, p. 41.

<sup>2034</sup> TF1-033, Transcript 11 July 2005, p. 16; DAB-086, Transcript 25 July 2006, p. 23; DAB-090, Transcript 24 July 2006, p. 109.

<sup>2035</sup> TF1-153, Transcript 22 September 2005, p. 32.

<sup>2036</sup> TF1-153, Transcript 22 September 2005, p. 33.

<sup>2037</sup> DAB-086, Transcript 25 July 2006, p. 17; DAB-087, Transcript 25 July 2006, p. 54; DAB-090, Transcript 24 July 2006, p. 79; DAB-092, Transcript 8 September 2006, p. 32.

attack. He testified that by the second attack, there were no houses left to burn, and the corpses were remnants of the first attack because everyone was too afraid to return to town and bury them.<sup>2038</sup>

1435. After the second attack, civilians were forced to farm for the soldiers in town and the surrounding area.<sup>2039</sup>

1436. The Prosecution submits that the evidence proves beyond a reasonable doubt that the First attack in Yiffin and the crimes committed in the above mentioned attack were committed by the SLA faction under the command of all three Accused whilst en route to find a base camp pursuant to SAJ Musa's orders.

#### **KOINADUGU AFTER THE DEPARTURE OF THE ACCUSED TO FIND A BASE IN THE NORTH**

1437. Superman came to Kurubonla.<sup>2040</sup> SAJ Musa initially detained Superman and his men.<sup>2041</sup> Superman came to Kurubonla to organize a combined operation with the SLAs.<sup>2042</sup> After Superman arrived, the SLAs and RUF would organize joint patrols.<sup>2043</sup> DBK-012 testified that he returned with Brigadier Mani to Kurubonla and rejoined SAJ Musa.<sup>2044</sup>

1438. Crimes were committed in Kurubonla by both SLA/RUF. TF1-133 testified that she was abducted in Kumala, and brought to Kurubonla by Brigadier Mani's men.<sup>2045</sup> In Kurubonla, TF1-133 learned that Savage, Komba Gbundema, and Superman were there.<sup>2046</sup> TF1-133 testified that abducted women were forced to be wives of the soldiers.<sup>2047</sup> This witness said that when a woman was captured, the captor would rape the woman and bring her back to the camp. The woman would then be given to another man and forced to be his wife. At that point, no other man could have sex with her. The

<sup>2038</sup> DAB-090, Transcript 24 July 2006, pp. 89-90.

<sup>2039</sup> DAB-086, Transcript 25 July 2006, p. 20; DAB-087, Transcript 25 July 2006, p. 49.

<sup>2040</sup> TF1-184, Transcript 27 September 2005, p. 18 and DAB-095, Transcript 20 September 2006, p. 52.

<sup>2041</sup> TF1-184, Transcript 27 September 2005, p. 18.

<sup>2042</sup> DAB-095, Transcript 20 September 2006, p. 52.

<sup>2043</sup> DAB-095, Transcript 20 September 2006, pp. 52-54.

<sup>2044</sup> DBK-012, Transcript 5 October 2006, p. 103.

<sup>2045</sup> TF1-133, Transcript 7 July 2005, pp. 92-93.

<sup>2046</sup> TF1-133, Transcript 7 July 2005, pp. 93-95.

<sup>2047</sup> TF1-133, Transcript 7 July 2005, pp. 90-92.

soldier would be the woman's "sole owner."<sup>2048</sup> The woman who was forced to be the wife of a soldier would have to cook, and when that was done, the soldier would have sex with the woman.<sup>2049</sup> TF1-133 testified that Mani had children as bodyguards.<sup>2050</sup> Women and children abductees were kept in Kurubonla.<sup>2051</sup> Children captured in Kurubonla were also forced to do work for the soldiers.<sup>2052</sup> When Superman left SAJ Musa, he left behind Komba Gbundema.<sup>2053</sup>

#### Mongo Bendugu

1439. The troops under SAJ Musa attacked Mongo Bendugu again, and captured arms and ammunition.<sup>2054</sup> It was a joint SLA/RUF operation.<sup>2055</sup> After taking Mongo Bendugu, SAJ Musa radioed the First Accused and told him about the attack, the captured arms and ammunition and his plans to attack Kabala by pretending that they were going to surrender.<sup>2056</sup> The evidence below suggests that SAJ Musa carried out the attacks in the manner as mentioned in his radio conversation i.e. by pretending to surrender which gives weight to the fact that TF1-334 was actually with the First Accused when he overheard this radio conversation between SAJ Musa and the First Accused whilst at Colonel Eddie Town.<sup>2057</sup>

1440. TF1-209 was told that amputations occurred in Mongo. The rebels also told her that in Mongo, they would slit open pregnant women's bellies.<sup>2058</sup>

#### Kabala 2

1441. When Superman returned to Mongo Bendugu, there was a plan to attack Kabala<sup>2059</sup> as ECOMOG were based there. DAB-089 testified that when the rebels came through

<sup>2048</sup> TF1-133, Transcript 7 July 2005, pp. 97-101.

<sup>2049</sup> TF1-133, Transcript 7 July 2005, p. 98.

<sup>2050</sup> TF1-133, Transcript 7 July 2005, p. 96.

<sup>2051</sup> TF1-133, Transcript 7 July 2005, p. 96.

<sup>2052</sup> TF1-133, Transcript 7 July 2005, p. 102.

<sup>2053</sup> TF1-184, Transcript 27 September 2005, p. 18.

<sup>2054</sup> TF1-184, Transcript 27 September 2005, p. 21 and DAB-023, Transcript 31 July 2006, p. 57 and DBK-012, Transcript 5 October 2006, p. 104.

<sup>2055</sup> DBK-129, Transcript 9 October 2006, pp. 75-76 and DAB-083, Transcript 21 July 2006, p. 29-30.

<sup>2056</sup> TF1-334, Transcript 24 May 2005, pp. 42-45.

<sup>2057</sup> TF1-334, Transcript 24 May 2005, pp. 33-36.

<sup>2058</sup> TF1-209, Transcript 7 July 2005, pp. 40-41.

<sup>2059</sup> TF1-184, Transcript 27 September 2005, p. 21.

Bambukoro, they told people that they were going to Kabala to surrender.<sup>2060</sup> Similarly, DAB-091 was told that the soldiers going through Yomadugu were heading to Kabala to surrender.<sup>2061</sup> The attack on Kabala was a joint operation of SLAs and RUF.<sup>2062</sup> The leaders of these groups were SAJ Musa and Superman.<sup>2063</sup>

1442. The attack on Kabala occurred in late July 1998.<sup>2064</sup> They came to town saying they had come to surrender. Others came behind them and shooting started.<sup>2065</sup> TF1-334 described a radio call that SAJ Musa made to the First Accused in which he laid out this very plan of attack. SAJ Musa told the First Accused that his plan to attack Kabala involved pretending they would surrender.<sup>2066</sup> The First Accused also attempted to use this tactic to attack Gbinti in Port Loko District, but did not after learning about the ECOMOG strength there.<sup>2067</sup> This evidence again suggests that the First Accused adopted SAJ Musa's plan of pretending to surrender as a means of attack based on his radio conversation with SAJ Musa. Since TF1-334 overheard this radio conversation whilst he was in Camp Rosos with the First Accused it gives further weight to the evidence of TF1-334 that he was actually with the First Accused at Camp Rosos who was in a command position whilst talking to SAJ Musa over the radio. It totally undermines the First Accused alibi that he was either under detention in Kailahun or in Yarya during this time frame, i.e. end of June to September 1998.<sup>2068</sup>

1443. DAB-077 heard about this tactic used in Sekunia.<sup>2069</sup> This strategy was also used in a later attack on Mongo Bendugu.<sup>2070</sup> The use of the shared tactic suggests that communications between the SLA forces was quite widespread and strategies were shared between groups.

<sup>2060</sup> DAB-089, Transcript 24 July 2006, p. 45.

<sup>2061</sup> DAB-091, Transcript 24 July 2006, pp. 6-7.

<sup>2062</sup> DAB-083, Transcript 21 July 2006, p. 33.

<sup>2063</sup> DAB-083, Transcript 21 July 2006, pp. 35-36 and DAB-091, Transcript 24 July 2006, pp. 9-10.

<sup>2064</sup> TF1-147, Transcript 13 July 2005, p. 7 and Exhibit P57, No Peace Without Justice Report, 10 March 2004, p. 177.

<sup>2065</sup> TF1-147, Transcript 13 July 2005, p. 7.

<sup>2066</sup> TF1-334, Transcript 24 May 2005, p. 44.

<sup>2067</sup> TF1-334, Transcript 24 May 2005, pp. 46-49.

<sup>2068</sup> TF1-334, Transcript 24 May 2005, pp. 33-36.

<sup>2069</sup> DAB-077, Transcript 19 July 2006, p. 69.

<sup>2070</sup> Exhibit P57, "No Peace Without Justice Report," 10 March 2004, p. 178.

1444. The rebels then stayed in Kabala for four to five days before being repelled.<sup>2071</sup> After the attack on Kabala, TF1-147 returned to the town and saw houses burnt, and some still on fire. TF1-147's own house was looted during the attack.<sup>2072</sup> DAB-083 also received information about people being abducted and beaten.<sup>2073</sup> DAB-091 testified that he heard from abductees that they were abducted on the way to Kabala and forced to carry loads there.<sup>2074</sup> DAB-083 received information that the SLA/RUF soldiers were raping civilians.<sup>2075</sup>

#### Koinadugu Town

1445. When the troops were pushed from Kabala, they settled in Koinadugu Town.<sup>2076</sup> They came from Mongo Bendugu.<sup>2077</sup> DAB-081 testified that Koinadugu Town was attacked by a joint SLA/RUF force headed by SAJ Musa and Superman.<sup>2078</sup> TF1-209 testified that the attack on Koinadugu Town happened in August 1998.<sup>2079</sup> She described this group as wearing both combat fatigues and civilian clothes.<sup>2080</sup> TF1-209 was told that those who attacked her farm were under the command of Superman and SAJ Musa.<sup>2081</sup>

1446. There was a mixed force of SLA and RUF working together in Koinadugu Town. DAB-083 testified that SAJ Musa and Superman were based there,<sup>2082</sup> and that before the infighting, the RUF and SLA were working together.<sup>2083</sup> DAB-033 testified that both Superman's RUF and SAJ Musa's SLAs were working together as a team in Koinadugu Town.<sup>2084</sup> DAB-023 also testified that SAJ Musa was working with Superman and the RUF in Koinadugu, before the infight.<sup>2085</sup> DBK-131 testified that the RUF and SLA were

<sup>2071</sup> TF1-147, Transcript 13 July 2005, pp. 8-9. DAB-083 also says that the shooting in Kabala lasted four days, Transcript 21 July 2006, p. 33. DAB-089 heard that government soldiers dislodged the "gunmen" after five days, DAB-089 Transcript 24 July 2006, pp. 47-48. DAB-079, Transcript 28 July 2006, pp. 22-26.

<sup>2072</sup> TF1-147, Transcript 13 July 2005, pp. 9-10.

<sup>2073</sup> DAB-083, Transcript 21 July 2006, pp. 35-36.

<sup>2074</sup> DAB-091, Transcript 24 July 2006, pp. 8-9.

<sup>2075</sup> DAB-083, Transcript 21 July 2006, p. 36.

<sup>2076</sup> TF1-184, Transcript 27 September 2005, p. 22 and DBK-131, Transcript 10 October 2006, p. 35.

<sup>2077</sup> TF1-209, Transcript 7 July 2005, p. 59.

<sup>2078</sup> DAB-081, Transcript 20 July 2006, p. 82.

<sup>2079</sup> TF1-209, Transcript 7 July 2005, pp. 29, 63.

<sup>2080</sup> TF1-209, Transcript 7 July 2005, pp. 29-30.

<sup>2081</sup> TF1-209, Transcript 7 July 2005, p. 32.

<sup>2082</sup> DAB-083, Transcript 21 July 2006, p. 41.

<sup>2083</sup> DAB-083, Transcript 21 July 2006, pp. 57-58.

<sup>2084</sup> DAB-033, Transcript 2 October 2006, p. 84. See also DAB-079, Transcript 28 July 2006, pp. 32-33.

<sup>2085</sup> DAB-023, Transcript 3 August 2006, p. 87.

living together in Koinadugu Town and were jointly defending against ECOMOG and CDF.<sup>2086</sup> DAB-089 testified that the people he met in Koinadugu Town after he was captured were SLA soldiers under the command of SAJ Musa. The troops there were mixed civilian and combat dress.<sup>2087</sup> He was later told by the rebel he was working for that the two leaders were SAJ Musa and Superman.<sup>2088</sup> DAB-081 testified that the RUF and SLA could go to each others' part of town, and were working in commonality.<sup>2089</sup> Before the infight, the SLA and RUF used to share food and ammunition.<sup>2090</sup>

1447. Crimes were committed in Koinadugu Town and the surrounding areas. TF1-153 testified that as he moved from Yiraia to Koinadugu Town, he saw dead bodies on the roadside, with bullet wounds. He was told that Superman had killed these people.<sup>2091</sup> While attempting to hide at a family farm, TF1-209 witnessed an attack on the farm by what she describes as the Junta. At the farm the Junta killed people, including her husband and child.<sup>2092</sup> When she tried to get a hold of her child, she was hit with a cutlass.<sup>2093</sup> DAB-081 testified that the RUF in Koinadugu Town killed over ten people by beating them with machetes and sticks.<sup>2094</sup> DAB-083 saw the bodies of a suckling mother and her child on the ground when he returned to Koinadugu Town after Superman had left.<sup>2095</sup>

1448. Rapes occurred in Koinadugu Town and the surrounding areas. TF1-209 testified that her farm was attacked by the Junta, who then raped people.<sup>2096</sup> During the attack on TF1-209's family farm, she was raped by two rebels even though she was pregnant.<sup>2097</sup> She was raped in her husband's presence, while he was beaten.<sup>2098</sup> She said that other women were raped by the same people, including children as young as nine and ten years old.<sup>2099</sup> TF1-209 was told by the rebels who raped her that other pregnant women had their bellies

<sup>2086</sup> DBK-131, Transcript 26 October 2006, pp. 36-37.

<sup>2087</sup> DAB-089, Transcript 24 July 2006, pp. 64-66.

<sup>2088</sup> DAB-089, Transcript 24 July 2006, p. 55.

<sup>2089</sup> DAB-081, Transcript 21 July 2006, p. 13.

<sup>2090</sup> DAB-081, Transcript 21 July 2006, p. 12.

<sup>2091</sup> TF1-153, Transcript 22 September 2005, pp. 51-52.

<sup>2092</sup> TF1-209, Transcript 7 July 2005, p. 31.

<sup>2093</sup> TF1-209, Transcript 7 July 2005, pp. 31, 70-71.

<sup>2094</sup> DAB-081, Transcript 20 July 2006, p. 99.

<sup>2095</sup> DAB-083, Transcript 21 July 2006, p. 46.

<sup>2096</sup> TF1-209, Transcript 7 July 2005, p. 31.

<sup>2097</sup> TF1-209, Transcript 7 July 2005, pp. 31-32.

<sup>2098</sup> TF1-209, Transcript 7 July 2005, p. 33.

<sup>2099</sup> TF1-209, Transcript 7 July 2005, pp. 33-34.



slit so that the rebels could see the gender of the baby. They also told her that some women were forcefully initiated into Bondo.<sup>2100</sup>

1449. TF1-209 was abducted and brought to her captor's house. There she cooked and did laundry for him. He made her his wife.<sup>2101</sup> During her time in the bush, she was forced to be the wife of two different men, one with SAJ Musa's group and the other with Superman's group.<sup>2102</sup>

1450. Abductions and forced labour were rampant in Koinadugu Town and the surrounding areas. The rebels took TF1-209's rice and groundnut and made her and other abductees carry them to Koinadugu Town.<sup>2103</sup> DAB-089 was abducted in Bambukoro and forced to carry loads to Koinadugu Town.<sup>2104</sup> While in Koinadugu Town, he had to carry loads, log wood, and make food for the soldiers.<sup>2105</sup> DAB-081 was abducted by an RUF in Koinadugu Town along with his wife.<sup>2106</sup> He described how during his abduction, he became a slave.<sup>2107</sup> As a slave, he had to work, search for food, carry loads, and build huts for the soldiers.<sup>2108</sup> He testified that other villagers were forced to work for the SLA doing the same kind of work, but were treated less harshly.<sup>2109</sup> However, harsh treatment is not an element of enslavement. The simple fact that they were enslaved is enough to fulfil the elements of that crime.

1451. The SLA/RUF forces kept close track of their abducted civilians. When TF1-209 arrived in Koinadugu Town, she and other captives were taken to the MP office where the names of the abducted civilians were written down so no one could go missing. The MP boss was wearing a uniform.<sup>2110</sup> DAB-082 was abducted from his farm by men in civilian clothes.<sup>2111</sup> They took him to the boss, SAJ Musa in Koinadugu Town, who sent the

<sup>2100</sup> TF1-209, Transcript 7 July 2005, pp. 34-35.

<sup>2101</sup> TF1-209, Transcript 7 July 2005, p. 38.

<sup>2102</sup> TF1-209, Transcript 7 July 2005, pp. 47-48, 52.

<sup>2103</sup> TF1-209, Transcript 7 July 2005, pp. 36.

<sup>2104</sup> DAB-089, Transcript 24 July 2006, pp. 44, 50-51.

<sup>2105</sup> DAB-089, Transcript 24 July 2006, p. 54-55.

<sup>2106</sup> DAB-081, Transcript 20 July 2006, pp. 82, 84.

<sup>2107</sup> DAB-081, Transcript 20 July 2006, p. 85.

<sup>2108</sup> DAB-081, Transcript 20 July 2006, pp. 89-90.

<sup>2109</sup> DAB-081, Transcript 21 July 2006, p. 10.

<sup>2110</sup> TF1-209, Transcript 7 July 2005, pp. 37-38.

<sup>2111</sup> DAB-082, Transcript 21 July 2006, p. 67.

witness to the MP Officer.<sup>2112</sup> The next day, he had to go on food finding missions.<sup>2113</sup> When DAB-089 arrived in Koinadugu Town, he was brought to a commander who carved 'RUF' in his chest and forehead so he couldn't escape.<sup>2114</sup>

1452. DBK-131 testified that no civilians were subjected to forced labour in Koinadugu Town. He said that they were all voluntary.<sup>2115</sup> Considering the overwhelming evidence to the contrary from both Prosecution and Defence witnesses, this evidence cannot be believed.

1453. DAB-096 testified that he moved with SAJ Musa from Kurubonla to Koinadugu Town. He said that there were no civilian abductees with them.<sup>2116</sup> He also testified that they stayed in Koinadugu Town for one day.<sup>2117</sup> He denied that SAJ Musa stayed in Koinadugu Town for a month with Superman.<sup>2118</sup> Considering the amount of evidence, from both Prosecution and Defence witnesses, to the contrary, his testimony on this matter cannot be believed.

1454. In Koinadugu Town, abducted civilians were trained to fight.<sup>2119</sup> TF1-184 was an instructor and trained the civilians how to handle weapons.<sup>2120</sup> Both the SLAs and the RUF recruited young boys and girls to fight. They were between 14 and 18 years old.<sup>2121</sup> They were trained by the RUF and SLA.<sup>2122</sup> DBK-131 testified that the training base was at the school in Koinadugu Town.<sup>2123</sup>

1455. SAJ Musa ordered 0-Five to search for the First Accused.<sup>2124</sup> The First Accused radioed SAJ Musa during this time.<sup>2125</sup> SAJ Musa informed the First Accused that he had sent 0-Five to Colonel Eddie Town, and that this should become an SLA defensive.<sup>2126</sup> The First Accused planned their arrival with SAJ Musa, setting up a meeting place for 0-Five at

<sup>2112</sup> DAB-082, Transcript 21 July 2006, pp. 70-71.

<sup>2113</sup> DAB-082, Transcript 21 July 2006, p. 72-73.

<sup>2114</sup> DAB-089, Transcript 24 July 2006, p. 51-54.

<sup>2115</sup> DBK-131, Transcript 26 October 2006, p. 37.

<sup>2116</sup> DAB-096, Transcript 18 September 2006, pp. 106-107.

<sup>2117</sup> DAB-096, Transcript 18 September 2006, p. 108.

<sup>2118</sup> DAB-096, Transcript 25 September 2006, p. 22.

<sup>2119</sup> TF1-184, Transcript 27 September 2005, p. 22 and TF1-094, Transcript 13 July 2005, pp. 32-33.

<sup>2120</sup> TF1-184, Transcript 29 September 2005, pp. 33-34.

<sup>2121</sup> DAB-081, Transcript 21 July 2006, p. 3.

<sup>2122</sup> DAB-081, Transcript 21 July 2006, p. 15.

<sup>2123</sup> DBK-131, Transcript 10 October 2006, pp. 37-38.

<sup>2124</sup> TF1-184, Transcript 27 September 2005, pp. 25-26 and TF1-153, Transcript 22 September 2005, p. 61.

<sup>2125</sup> TF1-334, Transcript 24 May 2005, pp. 89-90.

<sup>2126</sup> TF1-334, Transcript 24 May 2005, p. 91.

Gbendembu.<sup>2127</sup> Again this belies the First Accused's alibi that he was detained on his arrest at Colonel Eddie Town.

1456. DAB-096 testified that it was George Johnson that called SAJ Musa.<sup>2128</sup> It is highly doubtful that DAB-096 was even with them at Koinadugu Town, especially as he testified that they were only there for one day.<sup>2129</sup>

1457. Two weeks after 0-Five left Koinadugu, he radioed back to SAJ Musa explaining where the First Accused was based.<sup>2130</sup> TF1-153 stayed with SAJ Musa in Koinadugu and heard this radio communication.<sup>2131</sup>

#### Areas Around Koinadugu Town

##### *Bumbunkura*

1458. TF1-094 testified about an attack at Bumbunkura in August 1998.<sup>2132</sup> She described the attackers as both rebels and soldiers wearing uniforms.<sup>2133</sup> Her parents were killed in a house and she was captured by an SLA.<sup>2134</sup> At this time, the witness was in Class 2 and had not reached puberty.<sup>2135</sup> She also testified about other civilians from Bumbunkura that were captured and forced to work for the SLAs and RUF. Anyone who refused was killed or beaten.<sup>2136</sup>

##### Bambukoro

1459. It is the submission of the Prosecution that Bumbunkura and Bambukoro are two different villages very near to each other. DAB-088 testified about an attack on Bambukoro. He says that those that attacked him were RUF.<sup>2137</sup> However, he also testified that the attackers wore mixed clothing, some in civilian clothes and some in

<sup>2127</sup> TF1-334, Transcript 24 May 2005, p. 95.

<sup>2128</sup> DAB-096, Transcript 18 September 2006, p. 109.

<sup>2129</sup> DAB-096, Transcript 18 September 2006, p. 108.

<sup>2130</sup> TF1-153, Transcript 22 September 2005, p. 61 and DAB-023, Transcript 31 July 2006, p. 59.

<sup>2131</sup> TF1-153, Transcript 22 September 2005, p. 57.

<sup>2132</sup> TF1-094, Transcript 13 July 2005, pp. 25, 47.

<sup>2133</sup> TF1-094, Transcript 13 July 2005, p. 26.

<sup>2134</sup> TF1-094, Transcript 13 July 2005, pp. 27-28.

<sup>2135</sup> TF1-094, Transcript 13 July 2005, p. 28.

<sup>2136</sup> TF1-094, Transcript 13 July 2005, p. 32.

<sup>2137</sup> DAB-088, Transcript 24 July 2006, pp. 32-33.

military fatigues.<sup>2138</sup> When the witness was captured, he was told that the rebels' commanders were Superman and SAJ Musa, and that they were based in Koinadugu Town.<sup>2139</sup> DAB-089 testified that the people who captured him were in civilian clothes, with the exception of their commander, who wore a combat shirt.<sup>2140</sup>

1460. The rebels burnt DAB-088's hut and took all his rice.<sup>2141</sup> During the first attack, the soldiers captured two of DAB-088's wives and made them carry loads.<sup>2142</sup> During a later attack, the witness himself was abducted.<sup>2143</sup> The rebels forced him to carry a mattress to Yomadugu. The witness escaped four days later.<sup>2144</sup> DAB-089 heard that people were being captured by gunmen.<sup>2145</sup> When he later came to town, he and other civilians were forced to carry loads to Koinadugu Town.<sup>2146</sup> When DAB-088's wives were captured, they were also raped in the bush.<sup>2147</sup> The witness' uncle's wife was also raped.<sup>2148</sup> DAB-089 heard that three women had been captured and raped.<sup>2149</sup> When the rebels came the first time, they killed DAB-088's children.<sup>2150</sup> DAB-088 testified that he found nine corpses, including his two children, in town.<sup>2151</sup> DAB-089 testified that nine people were killed, including children.<sup>2152</sup>

#### *Yomadugu*

1461. In Yomadugu, there was a mixed force of SLA and RUF working together. DAB-088 described the force there as mixed rebels and soldiers.<sup>2153</sup> TF1-094 described some SLA commanders in Yomadugu and testified that abductees worked for both the SLA and RUF

<sup>2138</sup> DAB-088, Transcript 24 July 2006, p. 23.

<sup>2139</sup> DAB-088, Transcript 24 July 2006, p. 29.

<sup>2140</sup> DAB-089, Transcript 24 July 2006, p. 51.

<sup>2141</sup> DAB-088, Transcript 24 July 2006, p. 24.

<sup>2142</sup> DAB-088, Transcript 24 July 2006, pp. 23-24.

<sup>2143</sup> DAB-088, Transcript 24 July 2006, p. 25.

<sup>2144</sup> DAB-088, Transcript 24 July 2006, pp. 26-27.

<sup>2145</sup> DAB-089, Transcript 24 July 2006, p. 48.

<sup>2146</sup> DAB-089, Transcript 24 July 2006, pp. 50-51.

<sup>2147</sup> DAB-088, Transcript 24 July 2006, pp. 24-25.

<sup>2148</sup> DAB-088, Transcript 24 July 2006, p. 31.

<sup>2149</sup> DAB-089, Transcript 24 July 2006, p. 57.

<sup>2150</sup> DAB-088, Transcript 24 July 2006, pp. 23-24.

<sup>2151</sup> DAB-088, Transcript 24 July 2006, p. 41.

<sup>2152</sup> DAB-089, Transcript 24 July 2006, p. 57.

<sup>2153</sup> DAB-088, Transcript 24 July 2006, p. 40.

forces there.<sup>2154</sup> The rebels who captured DAB-088 told him that their commanders were Superman and SAJ Musa, both of whom were based in Koinadugu Town.<sup>2155</sup>

1462. Forced labour and slavery was widespread in Yomadugu. Civilians captured from neighbouring villages would be brought to Yomadugu. DAB-088 was forced to carry loads from Bambukoro to Yomadugu.<sup>2156</sup> He said that the only civilians in Yomadugu were captives from other areas. Everyone who was captured would be stripped and given nothing more than a loin cloth for clothing. The houses were full of people, and the witness described it as “slavery.”<sup>2157</sup> TF1-094 testified that those who refused to work were beaten or killed.<sup>2158</sup>

1463. After being captured in Bumbunkura, TF1-094 was taken to Yomadugu by the SLA that had abducted her. There, she was raped, and made into her captor’s wife.<sup>2159</sup> As his wife, she had to do laundry for him and others.<sup>2160</sup> At this time, witness was in Class 2 and had not reached her menstrual period.<sup>2161</sup>

1464. TF1-094 testified that she was trained to fight by an SLA. Many civilians were trained to fight, including her brother.<sup>2162</sup> At this time, she was still a young girl.<sup>2163</sup>

1465. When DAB-091 returned to Yomadugu after the rebels left, he found the entire village was burnt down.<sup>2164</sup>

#### *Yiraia*

1466. TF1-153 was in Yiraia when Komba Gbundema attacked the village. Komba Gbundema was under the command of Superman.<sup>2165</sup> Komba Gbundema and his three soldiers raped the women TF1-153 was staying with, including a little girl with epilepsy.<sup>2166</sup> Everyone

<sup>2154</sup> TF1-094, Transcript 13 July 2005, pp. 30-32.

<sup>2155</sup> DAB-088, Transcript 24 July 2006, p. 29.

<sup>2156</sup> DAB-088, Transcript 24 July 2006, pp. 26-27.

<sup>2157</sup> DAB-088, Transcript 24 July 2006, pp. 40-41.

<sup>2158</sup> TF1-094, Transcript 13 July 2005, p. 32.

<sup>2159</sup> TF1-094, Transcript 13 July 2005, pp. 28-29.

<sup>2160</sup> TF1-094, Transcript 13 July 2005, p. 29.

<sup>2161</sup> TF1-094, Transcript 13 July 2005, pp. 28, 48.

<sup>2162</sup> TF1-094, Transcript 13 July 2005, pp. 32-34.

<sup>2163</sup> TF1-094, Transcript 13 July 2005, pp. 48-49.

<sup>2164</sup> DAB-091, Transcript 24 July 2006, p. 10.

<sup>2165</sup> TF1-153, Transcript 22 September 2005, p. 43.

<sup>2166</sup> TF1-153, Transcript 22 September 2005, p. 47.

was prevented from moving.<sup>2167</sup> They were then forced to carry loads for the soldiers to Koinadugu Town.<sup>2168</sup> Enroute, TF1-153 testified that he saw many corpses with bullet wounds.<sup>2169</sup>

### Infighting at Koinadugu Town

1467. An infight broke out between the SLAs and RUF in Koinadugu Town.<sup>2170</sup> An RUF soldier shot a boy at the training facilities, so SAJ Musa shot the RUF soldier.<sup>2171</sup> The Prosecution submits that this is further evidence of the joint training of civilians and children by both the RUF and SLA at Koinadugu village as alluded to earlier. Superman retaliated by capturing the ammunition and attacking the SLAs.<sup>2172</sup>

1468. Due to the infight, SAJ Musa ordered the SLAs to leave Koinadugu.<sup>2173</sup> They moved to a village called Tumania, where they stayed for two weeks.<sup>2174</sup> During this time, the First Accused radioed SAJ Musa and SAJ Musa informed him of the infight with the RUF. SAJ Musa told him that he was coming to Colonel Eddie Town.<sup>2175</sup> After this call, SAJ Musa and the troops left Koinadugu District to join the First Accused in Colonel Eddie Town.<sup>2176</sup> DAB-033 claimed that SAJ Musa did not leave Koinadugu Town due to infighting.<sup>2177</sup> This position is simply not believable considering the overwhelming evidence by both Prosecution and Defence witnesses of the split between them at Koinadugu Town.

<sup>2167</sup> TF1-153, Transcript 22 September 2005, p. 43.

<sup>2168</sup> TF1-153, Transcript 22 September 2005, pp. 50-51.

<sup>2169</sup> TF1-153, Transcript 22 September 2005, p. 51.

<sup>2170</sup> TF1-184, Transcript 29 September 2005, pp. 95-96 and TF1-167, Transcript 19 September 2005, p. 61 and DAB-083, Transcript 21 July 2006, p. 42.

<sup>2171</sup> TF1-184, Transcript 27 September 2005, pp. 22-23 and DAB-081, Transcript 20 July 2006, p. 98 and DBK-131, Transcript 26 October 2006, p. 37.

<sup>2172</sup> TF1-184, Transcript 27 September 2005, p. 24 and Transcript 29 September 2005, pp. 95-96. TF1-209 backed up this version of events when she agreed with her statement, which was read to her during trial. In the statement, she says that her brother was the boy killed by the RUF, and in retaliation, SAJ Musa kills that RUF soldier. *See* Transcript 7 July 2005, pp. 76-77. *See also* DAB-081, Transcript 20 July 2006, p. 107. DBK-131, Transcript 10 October 2006, p. 38.

<sup>2173</sup> TF1-153, Transcript 22 September 2005, p. 63 and TF1-209, Transcript 7 July 2005, p. 59.

<sup>2174</sup> TF1-184, Transcript 27 September 2005, p. 24 and TF1-094, Transcript 13 July 2005, p. 36 and TF1-153, Transcript 22 September 2005, pp. 63-64 and DBK-131, Transcript 10 October 2006, pp. 40-41.

<sup>2175</sup> TF1-334 witnessed the call in Colonel Eddie Town, Transcript 25 May 2005, p. 54. TF1-184 witnessed the same call in Tumania, Transcript 27 September 2005, p. 27.

<sup>2176</sup> TF1-184, Transcript 27 September 2005, p. 27.

<sup>2177</sup> DAB-033, Transcript 2 October 2006, pp. 84-85.

Fadugu

1469. DAB-085 was living in Fadugu after the Intervention.<sup>2178</sup> He testified that a group of soldiers came through Fadugu, some wearing uniforms and some without.<sup>2179</sup> DAB-085's child was one of the soldiers retreating through Fadugu from Freetown.<sup>2180</sup> His child and the soldiers he spoke to tell the witness that they were carrying out Operation Pay Yourself.<sup>2181</sup> DAB-078 testified that the people coming through Fadugu after the Intervention were dressed in soldier uniforms.<sup>2182</sup> DAB-077 also testified that there were both SLA soldiers and people in civilian clothes moving through Fadugu directly after the Intervention.<sup>2183</sup>

1470. On 22 May 1998, Fadugu was attacked by men wearing military uniform.<sup>2184</sup> DAB-077 testified that after the attack he saw "RUF heading for FT" written on a house.<sup>2185</sup> He said that he heard it was Komba Gbundema who led the attack.<sup>2186</sup> DAB-078 was told that the commander of the troops was Captain Ishmael,<sup>2187</sup> an SLA soldier.<sup>2188</sup> It is the submission of the Prosecution that this is evidence of a joint SLA/RUF attack.

1471. Killings took place during this attack. DAB-078 testified that there were people killed by the soldiers that went through Fadugu after the Intervention.<sup>2189</sup> He witnessed as his captors beat his friend with a stick until he died.<sup>2190</sup> The friend was cut open, his intestines removed, and used as a checkpoint.<sup>2191</sup> Two men were also shot.<sup>2192</sup> The witness later heard about two women killed by the attackers.<sup>2193</sup> People were abducted

<sup>2178</sup> DAB-085, Transcript 20 July 2006, pp. 12-13.

<sup>2179</sup> DAB-085, Transcript 20 July 2006, p. 14.

<sup>2180</sup> DAB-085, Transcript 20 July 2006, p. 14.

<sup>2181</sup> DAB-085, Transcript 20 July 2006, p. 16.

<sup>2182</sup> DAB-078, Transcript 6 September 2006, pp. 9-10.

<sup>2183</sup> DAB-077, Transcript 19 July 2006, pp. 99-100.

<sup>2184</sup> DAB-078, Transcript 6 September 2006, pp. 9-10.

<sup>2185</sup> DAB-077, Transcript 19 July 2006, pp. 87-88.

<sup>2186</sup> DAB-077, Transcript 19 July 2006, p. 92, 104.

<sup>2187</sup> DAB-078, Transcript 6 September 2006, p. 22.

<sup>2188</sup> DAB-078, Transcript 6 September 2006, p. 54.

<sup>2189</sup> DAB-078, Transcript 6 September 2006, p. 53.

<sup>2190</sup> DAB-078, Transcript 6 September 2006, pp. 14-15.

<sup>2191</sup> DAB-078, Transcript 6 September 2006, p. 17.

<sup>2192</sup> DAB-078, Transcript 6 September 2006, p. 18.

<sup>2193</sup> DAB-078, Transcript 6 September 2006, p. 23.

during the May attack on Fadugu.<sup>2194</sup> DAB-078 testified that he was abducted and forced to carry luggage to Kanikay.<sup>2195</sup> He was abducted along with 15 other civilians.<sup>2196</sup>

1472. TF1-272 testified that in May 1998, Connaught Hospital began receiving young children suffering from failed amputations. The children were between seven to fourteen years old, and from the Kabala-Fadugu-Makeni area.<sup>2197</sup>

1473. A number of Defence witnesses testified that ECOMOG drove out the retreating soldiers a few weeks after the Intervention.<sup>2198</sup> Defence witnesses further testified about atrocities committed by ECOMOG from February to September 1998.<sup>2199</sup> It is the submission of the Prosecution that these acts are irrelevant to the indictment. ECOMOG has not been indicted, and any crimes that may have been committed by them do not relieve the Accused of their own criminal responsibility. It is well established in international criminal law that *tu quoque* is not a valid defence. Furthermore, any crimes that may have been committed by ECOMOG in the relevant time period and location, are not the particular crimes that the Accused are charged with. The Accused are responsible for their own crimes, and anything that ECOMOG has or has not done is irrelevant to the charges in the Indictment.

1474. Fadugu was attacked again on 11 September 1998. The attackers called it 'Operation Die'.<sup>2200</sup> Numerous witnesses testified that Savage was the commander of this attack.<sup>2201</sup> DAB-078 was told that a few days after the attack on Fadugu, Savage held a meeting and introduced himself as the commander for the attack.<sup>2202</sup> Savage wore military trousers,<sup>2203</sup> and was an SLA soldier.<sup>2204</sup> DAB-077 testified that it was only the RUF that attacked

<sup>2194</sup> DAB-077, Transcript 19 July 2006, p. 92.

<sup>2195</sup> DAB-078, Transcript 6 September 2006, p. 18-19.

<sup>2196</sup> DAB-078, Transcript 6 September 2006, p. 54.

<sup>2197</sup> TF1-272, Transcript 4 July 2005, pp. 60-61.

<sup>2198</sup> DAB-085, Transcript 20 July 2006, p. 17 and DAB-078, Transcript 6 September 2006, p. 25-26 and DAB-084, Transcript 8 September 2006, pp. 10-11 and DAB-077, Transcript 19 July 2006, pp. 57-64.

<sup>2199</sup> DAB-085, Transcript 20 July 2006, pp. 26-38 and DAB-078, Transcript 6 September 2006, p. 28-34.

<sup>2200</sup> Exhibit P57, "No Peace without Justice Report," 10 March 2004, p. 177.

<sup>2201</sup> DAB-085, Transcript 20 July 2006, p. 41; DAB-078, Transcript 6 September 2006, pp. 40-41; DAB-084, Transcript 8 September 2006, pp. 6-7.

<sup>2202</sup> DAB-078, Transcript 6 September 2006, p. 40.

<sup>2203</sup> DAB-078, Transcript 6 September 2006, p. 42.

<sup>2204</sup> DAB-078, Transcript 6 September 2006, p. 57.



Fadugu,<sup>2205</sup> but this is hard to believe considering the numerous witnesses, including Defence witnesses, that testified that Savage led the attack. There is also significant evidence that Savage was SLA, including from the First Accused.<sup>2206</sup> The Prosecution submits that the fact that Savage is again operating with SLAs in September 1998 in the Koinadugu District is clear evidence that Savage was an SLA from the Intervention, remained so in Tombodu Town in Kono and continued to be so in Koinadugu District where he was attempting to link up with Brigadier Man's group

1475. There were killings during this attack on Fadugu. TF1-078 testified that Savage killed a boy who looted a house, because the boy was not authorized to loot.<sup>2207</sup> DAB-084 testified that Savage and his boys would kill people.<sup>2208</sup> DAB-085 testified that the Paramount Chief was burnt to death and the house burnt.<sup>2209</sup> DAB-078 corroborates this testimony. He returned from hiding during this attack and found the Paramount Chief burning.<sup>2210</sup> DAB-077 also testified that the Paramount Chief was burnt in his house.<sup>2211</sup> Later, when an RUF called CO Stone came, he told DAB-077 that the Paramount Chief was killed because he did not stop ECOMOG from deploying there. This is an example of punishment for not supporting the rebel groups.

1476. TF1-078 said that Bobby Nengor shot a man, but the bullet just cut the man's right ear.<sup>2212</sup>

1477. DAB-085 testified that houses were burnt during this attack.<sup>2213</sup> DAB-078 testified that about 30 houses were burnt in the attack.<sup>2214</sup> DAB-084 testified that Savage and his boys burned thatch houses.<sup>2215</sup> DAB-085 left Fadugu for Kakarima, a nearby village. There he witnessed burnt houses and looted property. This was done by the rebels, under the

<sup>2205</sup> DAB-077, Transcript 19 July 2006, p. 108.

<sup>2206</sup> Accused Alex Tamba Brima, 22 June 2006, pp. 10-11; TF1-334, Transcript 19 May 2005, p. 21; TF1-133, Transcript 7 July 2005, p. 104; DAB-018,; DAB-023, Transcript 31 July 2006, p. 36.

<sup>2207</sup> DAB-078, Transcript 6 September 2006, p. 43.

<sup>2208</sup> DAB-084, Transcript 8 September 2006, p. 14.

<sup>2209</sup> DAB-085, Transcript 20 July 2006, p. 39.

<sup>2210</sup> DAB-078, Transcript 6 September 2006, p. 36 and Exhibit D24, under seal.

<sup>2211</sup> DAB-077, Transcript 19 July 2006, p. 93.

<sup>2212</sup> DAB-078, Transcript 6 September 2006, p. 44-45.

<sup>2213</sup> DAB-085, Transcript 20 July 2006, pp. 54-55.

<sup>2214</sup> DAB-078, Transcript 6 September 2006, p. 38.

<sup>2215</sup> DAB-084, Transcript 8 September 2006, p. 14.

control of Savage. DAB-085 testified that the rebels under Savage were the people who had been “going burning and doing bad things.”<sup>2216</sup>

1478. DAB-078 entered a house and found four men, two in soldier uniform and two in civilian clothes, raping his niece. The witness for forced to watch all of them rape the girl. The girl bled to death.<sup>2217</sup> DAB-078 also testified that Savage took his uncle’s wife by force.<sup>2218</sup>

1479. TF1-199 testified about his abduction in Bombali District by a mixed RUF/AFRC force. They brought him and other abductees through Fadugu. During the attack on Fadugu, the soldiers shot civilians.<sup>2219</sup> Houses were burnt, and people were abducted.<sup>2220</sup>

1480. The abducted girls and women were raped in rooms.<sup>2221</sup> The civilians were divided among the commanders and forced to carry loads as they marched.<sup>2222</sup> Then they all marched up to Bafodia, burning houses in the villages they passed through.<sup>2223</sup>

### Kabala 3

1481. DAB-079 testified that there were numerous attacks on Kabala by joint RUF/SLA forces.<sup>2224</sup> Civilians were killed during these attacks.<sup>2225</sup>

1482. TF1-180 testified that after he was trained to fight in Makeni, The First and Third Accused ordered him and other trained children to attack Kabala.<sup>2226</sup> At the time, TF1-180 was twelve years old.<sup>2227</sup>

1483. TF1-158 was another child soldier who was trained.<sup>2228</sup> Savage ordered that he and other children attack Kabala.<sup>2229</sup> The attack was unsuccessful and many of the children soldiers were killed.<sup>2230</sup>

<sup>2216</sup> DAB-085, Transcript 20 July 2006, pp. 40-42.

<sup>2217</sup> DAB-078, Transcript 6 September 2006, pp. 39-40.

<sup>2218</sup> DAB-078, Transcript 6 September 2006, p. 42.

<sup>2219</sup> TF1-199, Transcript 6 October 2005, pp. 77-78.

<sup>2220</sup> TF1-199, Transcript 6 October 2005, p. 79.

<sup>2221</sup> TF1-199, Transcript 6 October 2005, p. 79-80.

<sup>2222</sup> TF1-199, Transcript 6 October 2005, p. 80-81.

<sup>2223</sup> TF1-199, Transcript 6 October 2005, p. 81.

<sup>2224</sup> DAB-079, Transcript 28 July 2006, pp. 27-28, 31, 39.

<sup>2225</sup> DAB-079, Transcript 28 July 2006, pp. 60-61.

<sup>2226</sup> TF1-180, Transcript 8 July 2005, p. 9-16.

<sup>2227</sup> TF1-180, Transcript 8 July 2005, p. 4.

<sup>2228</sup> TF1-158, Transcript 26 July 2005, pp. 39-40, 44.

1484. TF1-199 was twelve years old<sup>2231</sup> when Savage ordered them to attack Kabala.<sup>2232</sup> The forces attacking were mixed AFRC and RUF soldiers.<sup>2233</sup> They were able to overtake Kabala and captured ECOMOG and government soldiers. These prisoners were executed.<sup>2234</sup> During the attack, houses were burnt, there were amputations, and civilians were killed.<sup>2235</sup>

### The Radio Communications

1485. Shortly after the attack on Karina, the troops under the command of the First Accused lost their radio man.<sup>2236</sup> However, they were still able to listen to their remaining radio, and so were kept informed of the movements and activities of the SLA troops in Koinadugu District.<sup>2237</sup> Radio communication was lost shortly after the attack on Mongo Bendugu. The troops in Camp Rosos regained a microphone for the radio after a raid on Batkanu. The First Accused immediately radioed SAJ Musa.<sup>2238</sup> At this time, SAJ Musa would have still been in Koinadugu Town.

1486. It is the submission of the Prosecution that the plans to make the base in the north were made before the radio was lost. Therefore, both groups – the First Accused's and SAJ Musa's – were working toward a common goal in Koinadugu District and Bombali District. Even without a microphone, the Accused were able to listen to the radio, and so were kept informed about the happenings in Koinadugu District. The Prosecution submits that the Accused showed their support for the actions of their fellow SLAs in Koinadugu District by immediately reuniting with them later in Colonel Eddie Town.

1487. A list of the villages where the crimes were committed, and the nature of those crimes committed by the Accused based on the evidence set out earlier in this section follows:

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<sup>2229</sup> TF1-158, Transcript 26 July 2005, pp. 44-45.

<sup>2230</sup> TF1-158, Transcript 26 July 2005, p. 45.

<sup>2231</sup> TF1-199, Transcript 6 October 2005, pp. 67-68.

<sup>2232</sup> TF1-199, Transcript 6 October 2005, pp. 86-87.

<sup>2233</sup> TF1-199, Transcript 6 October 2005, p. 87.

<sup>2234</sup> TF1-199, Transcript 6 October 2005, p. 88.

<sup>2235</sup> TF1-199, Transcript 6 October 2005, p. 88.

<sup>2236</sup> TF1-334, Transcript 23 May 2005, pp. 79-80.

<sup>2237</sup> TF1-334, Transcript 23 May 2005, p. 81.

<sup>2238</sup> TF1-334, Transcript 24 May 2005, pp. 31-34.

**COUNTS 1 – 2: TERRORISM AND COLLECTIVE PUNISHMENTS**

1488. The evidentiary basis for the crimes charged in Counts 3 to 14 of the Indictment as set out below, taken as a whole, provides the evidentiary basis for the acts of terrorism charged as Count 1 and the collective punishments charged as Count 2.

**COUNTS 3 – 5: UNLAWFUL KILLINGS**

1489. At Kabala, Yiffin, Kurubonla, Koinadugu Town, Fadugu (May and September 1998 attacks), Bambukoro, Yomadugu, Bambunkura

**COUNTS 6 – 9: SEXUAL VIOLENCE**

1490. At Kabala, Yiffin, Kurubonla, Koinadugu Town, Fadugu (May and September 1998 attacks), Kumula, Bambukoro, Yomadugu, Yiraia, Bafodia

**COUNTS 10 -11: PHYSICAL VIOLENCE**

1491. At Kabala, Yiffin, Kurubonla, Koinadugu Town, Fadugu (May and September 1998 attacks), Mongo Bendugu, Woronbia, Yomadugu, Bambunkura

**COUNT 12: USE OF CHILD SOLDIERS**

1492. Throughout the Koinadugu area but in particular at Kabala, Koinadugu Town, Yomadugu, Bafodia

**COUNT 13: ABDUCTIONS AND FORCED LABOUR**

1493. At Kabala, Yiffin, Kurubonla, Koinadugu Town, Fadugu (May and September 1998 attacks), Mongo Bendugu, Woronbia, Kumula, Bambukoro, Yomadugu, Bambunkura, Yiraia, Serekolia.

**COUNT 14: LOOTING AND BURNING**

1494. At Kabala, Yiffin, Kurubonla, Koinadugu Town, Fadugu (May and September 1998 attacks), Mongo Bendugu, Kroo Town. Bambukoro, Bafodia.

# **XVIII. CRIMES IN BOMBALI FROM 1 MAY 1998 UNTIL 30 NOVEMBER 1998**

1495. TF1-334 testified that the First Accused stated that Karina was a strategic point because there were Mandingos and it was the hometown of President Kabbah, and that Karina should be a place that should be the number one point of demonstration of the Junta forces, especially his own brigade.<sup>2239</sup>
1496. The First Accused further said that everyone should take part in a demonstration wherein Karina should be burnt down and, if possible, strong men captured. The First Accused also stated that amputation should take place in Karina.<sup>2240</sup>
1497. It is the case of the Prosecution that all the Accused, and in particular the First Accused, planned, ordered, instigated and otherwise aided and abetted the attack on Karina, Bornoya, Mateboi and Mandaha and the crimes which were committed therein as charged in the Indictment.
1498. TF1-334 gives compelling evidence about how Karina was attacked pursuant to the orders of the First Accused and how all the accused personally participated in the attack.<sup>2241</sup> Much of this evidence is corroborated by TF1-167<sup>2242</sup> and other insider witnesses such as TF1-033.<sup>2243</sup>
1499. It is highly significant that the First Accused knew the village was undefended and deliberately moved to where the advance party was located on hearing this news before launching the attack.<sup>2244</sup>
1500. It is crucial for the Trial Chamber to appreciate that Bornoya, Karina, Mandaha and Mateboi were villages all in extremely close proximity to each other so one attack on one village was followed almost immediately by an attack on one of the other villages.

<sup>2239</sup> TF1-334, Transcript 23 May 2005, pp. 57-58.

<sup>2240</sup> TF1-334, Transcript 23 May 2005, p. 58

<sup>2241</sup> TF1-334, Transcript 23 May 2005, pp. 56-77.

<sup>2242</sup> TF1-167, Transcript 15 September 2005, p. 51-58.

<sup>2243</sup> TF1-033, Transcript 11 July 2005, pp. 18-21.

<sup>2244</sup> TF1-334, Transcript 23 May 2005, p. 61 to 66

## **INDIVIDUAL CRIMINAL RESPONSIBILITY -BOMBALI**

### **JOINT CRIMINAL ENTERPRISE**

1501. For all crimes committed as mentioned below occurring after the ECOMOG Intervention in February 1998 until the withdrawal from Freetown in January 1999, the three Accused are individually criminally responsible under the theory of joint criminal enterprise, in that the crimes were within the contemplation of the common enterprise or were a reasonably foreseeable consequence of its implementation. Liability pursuant to the theory of joint criminal enterprise for this period has been analysed above and this analysis applies to the crime base of Bombali.

### **INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 6(1)**

#### **Brima**

1502. *Planning, Instigating or otherwise Aiding and Abetting*

1503. It is clear from the evidence that villages in the Bombali District, in particular Karina, were targeted as strategic points, Karina being the hometown of President Kabbah. The First Accused wished to use Karina as an example of the power of his forces.<sup>2245</sup> The attacks on Karina and other villages (including Bornoya, Mateboi and Mandaha, all in close proximity to each other, as well as the area around Camp Rosos) were carefully designed and organized by the First Accused, who intended that murder, extermination, acts of sexual violence, mutilations, use of child soldiers, forced labour, and looting and burning would occur, or was aware of the substantial likelihood of the occurrence of all of these crimes. This may be inferred from his statements prior to the attacks as well as his active participation in them.

1504. In addition, the First Accused prompted others, through inflammatory statements and active encouragement to participate in the planned unlawful acts. The First Accused urged everyone to participate in the burning of Karina and to capture strong men in addition to

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<sup>2245</sup> TF1-334, Transcript 23 May 2005, p. 57

stating that amputations should take place.<sup>2246</sup> There is evidence that the First Accused and his troops were reported to be causing trouble, in particular in Karina, by burning houses, amputating hands and carrying out killings.<sup>2247</sup> By these actions, the First Accused is liable for instigating the crimes charged.

1505. Alternatively, the First Accused is liable for aiding and abetting all of the crimes charged through his presence on the ground, his position of authority and his active support for the operations. The criminal acts were so widespread that the only possible inference, in view of his command position, is that the First Accused actively encouraged these acts or was aware that he was assisting the perpetrators in the commission of crimes.

#### *Ordering*

1506. The evidence demonstrates that the First Accused gave direct orders for the burning of Karina, the capture of men for forced labour, and for acts of physical violence including amputations.<sup>2248</sup> In view of the compelling evidence that Karina was attacked pursuant to the orders of the First Accused,<sup>2249</sup> and his position of authority in relation to the attack, it may reasonably be inferred that the First Accused ordered all of the crimes committed in Karina and surrounding villages in Bombali. He intended to bring about the commission of these crimes, or was aware of the substantial likelihood that they would occur based on his express or implied orders in relation to the Karina attack. The same is true for the attack on Bornoya which was carried out by SLAs under the command of the Accused. Similarly, in the attack on Mateboi, Adama Cut Hand returned with many amputated hands and was seen by the First and Second Accused.<sup>2250</sup> This is evidence of mutilations resulting from the First Accused's orders.

1507. Upon arrival at Camp Rosos, the First Accused gave a direct order to kill civilians<sup>2251</sup> which was carried out.<sup>2252</sup> He also ordered 'Operation Clear the Area' whereby all

<sup>2246</sup> TF1-334, Transcript 23 May 2005, p. 58

<sup>2247</sup> TF1-153, Transcript 22 September 2005, p. 76

<sup>2248</sup> TF1-334, Transcript 23 May 2005, p. 58

<sup>2249</sup> TF1-334 and TF1-167, Transcript 15 September 2005, p. 53

<sup>2250</sup> TF1-167, Transcript 15 September 2005, pp. 61-62

<sup>2251</sup> TF1-334, Transcript 23 May 2005, p. 104

<sup>2252</sup> TF1-334, Transcript 24 May 2005, pp. 3-5

villages around Rosos should be burnt down and items looted.<sup>2253</sup> At Gbomsamba he ordered amputations.<sup>2254</sup>

### *Committing*

1508. The evidence shows that the First Accused shot an imam and ten others at the mosque in Karina.<sup>2255</sup> As such he is liable for committing murder. He is also liable for extermination on the basis that his act formed part of a mass killing of civilians as part of a systematic attack involving killings in village after village in Bombali as the troop advanced.

### **Kamara**

### *Planning, Instigating or otherwise Aiding and Abetting*

1509. The evidence demonstrates that the Second Accused was present when the order was given to burn down Karina and kill its inhabitants<sup>2256</sup> and on the basis of all the evidence it may be inferred that he assisted in the planning phase. The Second Accused was present in Karina and saw bodies, and witnessed his security guard carrying out killings.<sup>2257</sup> In view of the widespread nature of the acts of murder, extermination, sexual violence, mutilations, use of child soldiers, forced labour, and looting and burning, and the Second Accused's presence in Karina, coupled with his position of authority, it may reasonably be inferred that he prompted or encouraged these acts. It may also be inferred from these facts that the Second Accused intended such acts or was aware of the substantial likelihood that they would be committed, or at least knew that he was assisting the perpetrators in the commission of the crimes. On the basis that the crimes in Karina were part of a consistent pattern of conduct by the SLA as they moved through Bombali to find a base camp, the Second Accused is liable for planning, instigating or aiding and abetting the crimes charged in the Bombali District. The pattern continued in and around Camp Rosos where the Second Accused was second in command. He was present when the

<sup>2253</sup> TF1-334, Transcript 23 May 2005, p. 105

<sup>2254</sup> TF1-334, Transcript 24 May 2005, pp. 5-12

<sup>2255</sup> TF1-334, Transcript 23 May 2005, p. 69

<sup>2256</sup> TF1-167, Transcript 15 September 2005, p. 53 and TF1-334, Transcript 23 May 2005, pp. 57-60.

<sup>2257</sup> TF1-167, Transcript 15 September 2005, pp. 56-57



order was given to make Camp Rosos a civilian 'no go area'<sup>2258</sup> and as second in command he assisted in putting this order into effect.

### *Committing*

1510. In Karina, the Second Accused set a house alight with five girls inside, ignoring their pleas for their lives.<sup>2259</sup> As such he is liable for committing murder. He is also liable for extermination on the basis that his act formed part of a mass killing of civilians as part of a systematic attack involving killings in village after village in Bombali as the troop advanced.

### **Kanu**

### *Planning, Instigating or otherwise Aiding and Abetting*

1511. The evidence demonstrates that the Third Accused was present when the order was given to burn down Karina and kill its inhabitants<sup>2260</sup> and on the basis of all the evidence it may be inferred that he assisted in the planning phase. The Third Accused helped to lead the group to Bornoya where numerous people were killed.<sup>2261</sup> He similarly led the group to Gbinti and pursuant to the order of the First Accused, Gbinti was looted and burnt down. The Third Accused reported the success of the operation to the First Accused.<sup>2262</sup>

1512. In view of the widespread nature of the acts of murder, extermination, sexual violence, mutilations, use of child soldiers, forced labour, and looting and burning, and the Third Accused's presence in various villages, coupled with his position of authority, it may reasonably be inferred that he prompted or encouraged these acts. It may also be inferred from these facts that the Third Accused intended such acts or was aware of the substantial likelihood that they would be committed, or at least knew that he was assisting the perpetrators in the commission of the crimes. On the basis that the crimes in these villages were part of a consistent pattern of conduct by the SLA as they moved through Bombali to find a base camp, the Third Accused is liable for planning, instigating or aiding and

<sup>2258</sup> TF1-334, Transcript 23 May 2005, p. 104.

<sup>2259</sup> TF1-334, Transcript 23 May 2005, p. 66

<sup>2260</sup> TF1-167, Transcript 15 September 2005, p. 53 and TF1-334, Transcript 23 May 2005, pp. 57-60.

<sup>2261</sup> TF1-158, Transcript 26 July 2005, p. 32

<sup>2262</sup> TF1-334, Transcript 24 May 2005, pp. 47-49

abetting the crimes charged in the Bombali District. The pattern continued in and around Camp Rosos where the Third Accused was third in command. He was present when the order was given to make Camp Rosos a civilian 'no go area'<sup>2263</sup> and as third in command he assisted in putting this order into effect. In particular, at Camp Rosos, the Third Accused was in charge of training child soldiers<sup>2264</sup> and in addition, he was in total control of the women at the camp.<sup>2265</sup>

#### **SUPERIOR RESPONSIBILITY UNDER ARTICLE 6(3)**

1513. The Prosecution submits that in the light of all the evidence, coupled with the high level of authority possessed by the three Accused as respectively first, second and third in command from Mansofinia to Bombali, all three accused bear responsibility pursuant to Article 6(3) of the Statute for the crimes committed during this period.

1514. The Prosecution submits that the evidence demonstrates that there was a superior subordinate relationship between the three Accused and the perpetrators, who in most cases were carrying out the orders of the Accused, resulting in the commission of the crimes as charged.

1515. Based on the fact that in most cases the orders to commit crimes were given to the subordinates directly by the Accused or at least in their presence, the Accused either knew or at the very least had reason to know that the subordinates were about to commit the offences or had done so, especially since on many occasions the Accused were personally present in the village while the crimes were being carried out.

1516. As the key commanders in the field, the three Accused clearly had the material ability to prevent offences or to punish those subordinates responsible for committing crimes. The necessary and reasonable measures to do so were at the disposal of the three Accused, however, far from putting any such procedures into effect, the three Accused themselves gave orders for, and actively encouraged, killings, physical and sexual violence and the burning of villages amounting to a campaign of terrorism.

<sup>2263</sup> TF1-334, Transcript 23 May 2005, p. 104.

<sup>2264</sup> TF1-334, Transcript 24 May 2005, p. 24

<sup>2265</sup> TF1-334, Transcript 24 May 2005, p. 62

## COUNTS 1 – 2

1517. The evidentiary basis for the crimes charged in Counts 3 to 14 of the Indictment as set out below, taken as a whole, provides the evidentiary basis for the acts of terrorism charged as Count 1 and the collective punishments charged as Count 2.

## COUNTS 3-5 UNLAWFUL KILLINGS

### Karina – Prosecution Evidence

1518. TF1-167 testified that before entering Karina, the First Accused ordered that the village must be burned down and people killed since it was the home town of Ahmed Tejan Kabbah. The Second and Third Accused, along with others were present when the First Accused gave the order.<sup>2266</sup>

1519. TF1-167 entered Karina with the Second Accused and saw a lot of dead bodies. He also saw Cyborg, a security to the Second Accused throw children (aged between 5-10 from two storey houses. TF1-176 also saw plenty of dead bodies in a mosque. The male adults were killed with gunshots. The mosque was attacked by Halaji Kamanad, aka Gunboot.<sup>2267</sup>

1520. TF1-334 testified that in Karina he, along with the Second Accused, went to a house where there were five young girls inside. The Second Accused said to close the doors and put the place on fire. The girls inside pleaded not to kill them. The Second Accused refused and set the house on fire. The Second Accused, TF1-334 and the CSO of the Second Accused set the house ablaze with the doors closed.<sup>2268</sup>

1521. While moving into Karina Town TF1-334 saw soldiers taking children from their mothers and throwing them into the fire.<sup>2269</sup>

1522. TF1-334 met with the First Accused at a mosque where the First Accused shot the imam in front of him. The First Accused then shot the other people in the mosque. There were 11 in total.<sup>2270</sup>

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<sup>2266</sup> George Johnson, TF1-167, Transcript 15 September 2005, p. 53,54.

<sup>2267</sup> George Johnson, TF1-167, Transcript 15 September 2005, pp. 56-57

<sup>2268</sup> TF1-334, Transcript 23 May 2005, p. 66

<sup>2269</sup> TF1-334, Transcript 23 May 2005, p. 67

1523. The Accused's involvement in the attack on Karina is also corroborated by TF1-184 who was told about the attack and the atrocities committed there by troops under the command of the First Accused, when TF1-184 reached Colonel Eddie Town with SAJ Musa.<sup>2271</sup> TF1-033, who was personally present, also corroborates this attack on Karina by the Accused and troops under their command and the atrocities committed in Karina and other villages in Bombali District mentioned below.<sup>2272</sup>
1524. TF1-055 was in Karina in his residence in Karina when he heard people shouting "They've Come."<sup>2273</sup> A short while later TF1-055 saw a "heavy population" come in. Some were holding ammunition, guns and other weapons.<sup>2274</sup>
1525. After the first group of armed men passed, a second armed group came. The second group gathered the people in the town, including TF1-055's relatives.<sup>2275</sup>
1526. TF1-055 heard the sound of heavy fighting. After the noise died down, he went outside and saw many dead bodies outside his compound.<sup>2276</sup> TF1-055 went to the mosque where he saw the body of his elder brother, two of his brothers colleagues and a woman.<sup>2277</sup> TF1-055 states that after the fighters left Karina, they went to a local village and killed many people along the way.<sup>2278</sup>
1527. DBK-089 was in Karina in May of 1998 and was not an eyewitness to the attack. After hiding in the bush he returned to find 7 dead bodies that were cut, lying by the side of the road. They were cut by a cutlass.<sup>2279</sup> He does not know if anyone was killed in the mosque.<sup>2280</sup>
1528. DBK-095 testifies that Karina is made up of several towns or villages. He states that Waridala is part of Karina, as well as Foday Soria. There are 16 towns under Karina, including Moribia and Manjoro. There are mosques in Waridala, Foday Soria, and

<sup>2270</sup> TF1-334, Transcript 23 May 2005, p. 69

<sup>2271</sup> TF 1-184 Transcript 27<sup>th</sup> September 2005 pp 37,39

<sup>2272</sup> TF1-033 Transcript 11<sup>th</sup> July 2005 pp 87-91

<sup>2273</sup> TF1-055, Transcript 12 July 2005, p. 132

<sup>2274</sup> TF1-055, Transcript 12 July 2005, p. 133

<sup>2275</sup> TF1-055, Transcript 12 July 2005, p. 133

<sup>2276</sup> TF1-055, Transcript 10 July 2005, pp. 132, 134

<sup>2277</sup> TF1-055, Transcript 12 July 2005, p. 135

<sup>2278</sup> TF1-055, Transcript 12 July 2005, p. 136, 137

<sup>2279</sup> DBK-089, Transcript 14 July 2006, pp. 10-12

<sup>2280</sup> DBK-089, Transcript 14 July 2006, pp. 18-19

Manjoro. Foday Soria and Moribia have wassies.<sup>2281</sup> There is however only one mosque in Karina Town.<sup>2282</sup> DBK-095 was not an eyewitness to the attack.

1529. DBK-126 has testified that there was no attack on Karina and that the troops she was with had only passed through it. She also testifies that the three Accused were not with her and the troop. She states that they did not enter Karina.<sup>2283</sup> DBK-126 is clearly lying on this aspect of her evidence. The Second Accused was present based on the evidence on the two insider witnesses. Furthermore, this witness has already pleaded guilty to contempt of court for intimidating Prosecution witnesses who gave unfavourable evidence against the Accused. DBK-126 therefore has a motive to lie in order to protect the Accused.

1530. It is the case of the Prosecution that there were killings that took place in Karina. For the most part this is not disputed by the Defence witnesses. Though DBK-126 testified that there was no attack on Karina, she is clearly contradicted by other Defence witnesses.

1531. Prosecution witnesses, in particular TF1-334 and TF1-167, mention killings that take place at the mosque in Karina. This is corroborated by TF1-055. It is the case the Prosecution that killings did take place in a mosque in Karina. Indeed, DBK 095 states that there are several mosques in Karina proper. The terms Karina and Karina Town have been used interchangeably. Even DBK-094 refers to only one Mosque in Karina as opposed to Karina Town. It is entirely logical that the Prosecution witnesses would be referring to Karina proper as opposed to Karina Town.

1532. It is telling that not a single Defence insider witness claims to have passed through Karina when it was attacked and that they mostly claim that they came across the Accused under arrest in Colonel Eddie Town. As such, not a single Defence insider witness is in a position to say that he did not see any of the Accused in Karina or the other villages in Bombali District when they were attacked. This contrasts sharply with the Prosecution insider witnesses who were part of such attacks and saw the Accused physically present in Karina and other attacked villages in this District.

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<sup>2281</sup> DBK-095, Transcript 17 July 2006, pp. 97-99

<sup>2282</sup> DBK-095, Transcript 17 July 2006, p. 99

<sup>2283</sup> DBK-126, Transcript 25 October 2006, pp. 37, 38

### Bornoya – Prosecution Evidence

1533. TF1-158 lived in Bornoya in May 1998 when soldiers with guns appeared at the mosque.<sup>2284</sup> Among the leaders of the group included the First and Third Accused.<sup>2285</sup> He witnessed two boys slitting a pregnant woman named Isatta Mansaray's stomach open.<sup>2286</sup>
1534. TF1-156 testified that ten people were killed and eight were hacked to death with machetes in Bornoya.<sup>2287</sup> In villages near Bornoya there were killings. TF1-156's sister, along with two other people was killed in Madogbo. Women were killed in Dariya. TF1-156's brother was kidnapped in Bornoya and killed in Karina.<sup>2288</sup>
1535. TF1-157 testified that when Bornoya was attacked by soldiers and rebels that that had killed six people in town.<sup>2289</sup> He testified that they killed his uncle, his uncle's two children, another woman and a young boy.<sup>2290</sup>
1536. DBK-085 testified that one of the first people he saw during the attack on Bornoya was Adama Cut Hand and that there were 15 men behind her.<sup>2291</sup> The Prosecution has already brought overwhelming evidence that Adama Cut Hand was an SLA.<sup>2292</sup>
1537. DBK-085 testified that Adama Cut Hand captured and killed his younger brother. It is pertinent to note that this contradicts DBK-126 who said Adama was with her and did not pass through these villages in Bombali.<sup>2293</sup> Again this clearly shows that DBK-126 is lying.
1538. There is no dispute that there were killings which took place in Bornoya. The issue comes down to one of credibility. Defence witness DBK-085's credibility can be put into issue on several fronts that will be addressed in other sections, but suffice it to say that when he contradicts himself as to the manner of death of his brother, his evidence should be given little to no weight.

<sup>2284</sup> TF1-158, Transcript 26 July 2005, p. 30

<sup>2285</sup> TF1-158, Transcript 26 July 2005, p. 32

<sup>2286</sup> TF1-158, Transcript 26 July 2005, pp. 35

<sup>2287</sup> TF1-156, Transcript 26 September 2005, pp. 35-38

<sup>2288</sup> TF1-156, Transcript 26 September 2005, pp. 42-48

<sup>2289</sup> TF1-157, Transcript 22 July 2005, p. 58

<sup>2290</sup> TF1-157, Transcript 22 July 2005, pp. 59-60

<sup>2291</sup> DBK-085, Transcript 10 July 2006, p. 14

<sup>2292</sup> TF1-094, Transcript 13 July 2005, pp. 37-38; TF1-158, Transcript 26 July 2005, pp. 32-34; TF1-167, Transcript 15 September 2005, pp. 61-62; TF1-157, Transcript 27 July 2005, p. 90-92.

<sup>2293</sup> DBK-126, Transcript 25 October 2006, pp. 38-39.

1539. In contrast, the Prosecution evidence is fairly consistent on the number and type of killings that occurred in Bornoya during the relevant time period. It is the case of the Prosecution, as shown by the evidence as with Karina, the attack on Bornoya was carried out by SLAs under the command of the Accused.

#### Mateboi – Prosecution Evidence

1540. TF1-157 testified that they left for Mateboi and that on the way there was a town where they killed many people.<sup>2294</sup> TF1-157 did not see any of the killings, but believes they were killed by the advance team who was travelling ahead of witness's group.<sup>2295</sup>

1541. TF1-167 testified that at Mateboi the First Accused sent a team to have the civilians join the forces at Camp Rosos. The attempt failed. Another team was sent under the command of Arthur. They came back with many amputated arms and the head of the chief of the village. This was done by Adama Cut Hand a Sierra Leone Army Soldier. When she returned from Mateboi she was wearing a necklace made with human hands. TF1-167 did not go on the operation but he, along with the first and Second Accused saw her.<sup>2296</sup> The Prosecution submits that that this attack was planned and ordered by the First Accused and was carried out by SLAs as again is evidenced by the presence of Adama Cut Hand.<sup>2297</sup>

1542. DBK-126 testifies that Mateboi was never attacked. She testifies that they were only passing by and that they never attacked a single village or position.<sup>2298</sup> Again, as indicated earlier, DBK-126 is clearly lying in this aspect of her evidence in order to protect the Second Accused.

1543. DBK-126 testified that she served as the cook to the person she called chief, aka Junior Lion (George Johnson). George Johnson is TF1-167. TF1-167 clearly testifies as to what happened in Mateboi. Her contradiction of TF1-167 does not make sense given that TF1-167 was in a better position to comment on events based upon his position and is again

<sup>2294</sup> TF1-157, Transcript 22 July 2005, pp. 83-84

<sup>2295</sup> TF1-157, Transcript 26 September 2005, p. 10

<sup>2296</sup> TF1-167, Transcript 15 September 2005, pp. 61-62

<sup>2297</sup> TF1-094, Transcript 13 July 2005, pp. 37-38; TF1-158, Transcript 26 July 2005, pp. 32-34; TF1-167, Transcript 15 September 2005, pp. 61-62; TF1-157, Transcript 27 July 2005, p. 90-92; DBK-085, Transcript 10 July 2006, pp. 34, 48-49; DBK-090, Transcript 17 July 2006, pp. 40-48; DBK-126, Transcript 12 October 2006, p. 86; DBK-094, Transcript 13 July 2006, pp. 30-31, 11 July 2006, pp. 73-74; Accused Alex Tamba Brima, Transcript 8 June 2006, pp. 53-54

<sup>2298</sup> DBK-126, Transcript 25 October 2006, p. 41

further proof that she is lying in this aspect of her evidence which should be given no weight.

#### Mandaha - Prosecution Evidence

1544. TF1-157 testified that on the way to Mandaha he saw dead people.<sup>2299</sup> He also testified that Mandaha was attacked by rebels and that he saw a male civilian killed in Mandaha.<sup>2300</sup>

1545. Generally, there is no disagreement that there were killings in Mandaha. The issue is the determination as to who is responsible. The Prosecution submits that more weight should be given to the Prosecution witness TF1-157 because of his presence at the scene during the time of the killings.

1546. Furthermore, the Prosecution submits that this attack on Mandaha can be regarded as a consistent pattern of conduct by the Accused and the SLAs under his command as they moved through Bombali in order to find a base camp especially as all the above villages Karina, Bornoya, Mateboi and Mandaha are all within a distance of about 10 km.

#### Camp Rosos

1547. On arriving at Camp Rosos, the First Accused ordered that it should be a made a civilian no go area, meaning that there should be no civilians within 15 miles of Rosos and that captured civilians who were brought to the camp should be executed. The First Accused passed this order in the presence of the Second and Third Accused.<sup>2301</sup> These orders were carried out.<sup>2302</sup>

#### Colonel Eddie Town

1548. Whilst at Colonel Eddie Town seven women who were accused of witchcraft were displayed and impaled by SLAs at the HQ. Three of these women died. They were impaled by Cyborg, Kabila, Mad Crazy, and SBU Killer, all of whom were SLAs.<sup>2303</sup> It is the case of the Prosecution that since all the Accused were based at the HQ in Colonel

<sup>2299</sup> TF1-157, Transcript 22 July 2005, pp. 80-81

<sup>2300</sup> TF1-157, Transcript 26 September 2005, p. 28

<sup>2301</sup> TF1-334, Transcript 23 May 2005, p. 104

<sup>2302</sup> TF1-334, Transcript 24 May 2005, pp. 2-5.

<sup>2303</sup> TF1-167, Transcript 15 September 2005, pp. 72-74.



Eddie Town they either would have ordered the impaling or at the very least been aware of it.

#### **COUNTS 6-9 SEXUAL VIOLENCE**

##### Karina – Prosecution Evidence

1549. TF1-334 testified that in Karina he saw soldiers raping the young women that were captured. He testified that they were having forceful sexual intercourse.<sup>2304</sup>

1550. TF1-334 also testified that they had captured 35 women and they were stripped naked under the direct command of Woyoh. The fighters objected as they were not supposed to see naked women, having gone through ceremonies.<sup>2305</sup>

1551. The Defence has not challenged the above Prosecution evidence and as such the Prosecution submits that its evidence should be accepted in its entirety.

#### **COUNTS 10-11 PHYSICAL VIOLENCE**

##### Karina – Prosecution Evidence

1552. The First Accused further said that everyone should take part in the demonstration wherein Karina should be burnt down and if possible capture strong men. The First Accused also stated that amputations should take place in Karina.<sup>2306</sup>

1553. TF1-055 testified that in Karina, fighters threw his younger uncle off the top of an old garret in the village.<sup>2307</sup> TF1-157 testified that he went to Karina and that two women were mutilated.<sup>2308</sup>

1554. TF1-153 testified that Coach Gibono told SAJ Musa that the First Accused and the troops were causing trouble on the way to finding the camp. Behaviour included the burning of houses, amputation of hands and killings. In particular in a village called Karina.<sup>2309</sup>

<sup>2304</sup> TF1-334, Transcript 23 May 2005, p. 71

<sup>2305</sup> TF1-334, Transcript 23 May 2005, p. 72

<sup>2306</sup> TF1-334, Transcript 23 May 2005, p. 58

<sup>2307</sup> TF1-055, Transcript 12 July 2005, p. 137

<sup>2308</sup> TF1-157, Transcript 22 July 2005, pp. 74-76

**COUNT 14 LOOTING**

1555. The First Accused ordered 'Operation Clear the Area' whereby all villages surrounding Camp Rosos were to be burnt down. The area was to be "jarred jarred," meaning everything of importance was to be taken.<sup>2310</sup> These orders were carried out.<sup>2311</sup>

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<sup>2309</sup> TF1-153, Transcript 22 September 2005, p. 76

<sup>2310</sup> TF1-334, Transcript 23 May 2005, p. 105

<sup>2311</sup> TF1-334, Transcript 23 May 2005, p. 106.

## **XIX. CRIMES DURING THE INVASION, OCCUPATION AND RETREAT FROM FREETOWN FROM 6 JANUARY UNTIL AROUND 28 JANUARY 1999**

### **THE FIRST ACCUSED**

1556. According to the evidence of the First Accused, he escaped from arrest together with the Third Accused and Woyoh at Goba Water in the confusion created after the death of SAJ Musa.<sup>2312</sup>

1557. The First Accused alleges that he was en route to Makeni during the Freetown invasion in the company of the Third Accused.<sup>2313</sup>

1558. He and the Third Accused met and stayed with the First Accused's family in Makeni during the time when the atrocities which are charged in the Indictment were committed in Freetown.<sup>2314</sup>

1559. In essence the First Accused is relying on the defence of alibi in respect of the crimes committed in Freetown. Tellingly:

- a. the Third Accused has not supported this alibi,<sup>2315</sup>
- b. the First Accused has not produced a single alibi witness to support his alibi that he was en route to Makeni and stayed with his family in Makeni during the time when the crimes were committed in Freetown and,
- c. during the entire Defence case it was not suggested to any Prosecution witness during cross-examination that the any of the Accused were under arrest during the advance from Colonel Eddie Town to Goba Water where at least two of the Accused escaped (First and Third Accused).

1560. The First Accused seeks to bolster his defence that he was not in Freetown at the time when the crimes were committed through a string of Defence witnesses who in essence say that:

<sup>2312</sup> Accused Alex Tamba Brima, 15 June 2006, pp. 27-28.

<sup>2313</sup> Accused Alex Tamba Brima, 15 June 2006, p. 31.

<sup>2314</sup> Accused Alex Tamba Brima, 15 June 2006, pp. 83-84.

<sup>2315</sup> *Prosecutor v Brima, Kamara, Kanu*, SCSL-04-16-T-510, "Kanu Response to prosecution Motion for Relief in Respect of Violations of Rule 67," 12 July 2006, para. 5.

- a. the last time they saw all the Accused was whilst they were under arrest at either Benguema or Waterloo,<sup>2316</sup>
- b. they did not personally see any of the Accused in Freetown during the invasion and,<sup>2317</sup>
- c. That FAT Sesay became the commander of the troops on the death of SAJ Musa and was the commander during the attack on Freetown.<sup>2318</sup>

1561. Tellingly:

- a. None of the Defence witnesses corroborate the First Accused's account that he escaped at Goba Water;<sup>2319</sup>
- b. According to at least one Defence witness, Woyoh was killed in Freetown during the invasion;<sup>2320</sup>
- c. It is implausible that Woyoh, who was under arrest and in fear of prosecution when he reached Freetown, would escape from the troop with the First and Third Accused at Goba Water and then rejoin them in order to attack Freetown;
- d. None of the Defence counsel suggested during cross-examination to a single Prosecution witness who said that they saw the three Accused present and holding command positions, that they were wrong and that FAT Sesay was in command. The First Accused has obviously made this up during his evidence and brought his former comrades-in-arms who were with him at the time of the invasion to corroborate this lie;
- e. The only question put to any Prosecution witness about the position FAT Sesay held was put to TF1-167 which was to the effect that FAT Sesay was an administrative officer. TF1-167 agreed with this and it is the case of the

<sup>2316</sup> DAB-033, Transcript 25 September 2006, p. 76; DAB-095, Transcript 28 September 2006, pp. 64-65, 75; DAB-156, Transcript 29 September 2006, pp. 83-84.

<sup>2317</sup> DAB-156, Transcript 29 September 2006, pp. 83-84; DBK-131, Transcript 10 October 2006, p. 91.

<sup>2318</sup> DBK-012, Transcript 6 October 2006, p. 22; DAB-033, Transcript 25 September 2006, pp. 99-100; DAB-095, Transcript 28 September 2006, pp. 64-65.

<sup>2319</sup> The only witness to even mention Goba Water was DAB-023, and he claims he never saw the Accused passed Masiaka, Transcript 31 July 2006, pp. 79, 87.

<sup>2320</sup> DBK-131, Transcript 26 October 2006, p. 54.

Prosecution that that was precisely the role which FAT Sesay played, i.e Brigade Administrator.<sup>2321</sup>

1562. All the Accused seek to blame those prisoners who were held at Pademba Road Prison and at the National Stadium and who were released on 6<sup>th</sup> January for the crimes which were committed in Freetown.<sup>2322</sup>

1563. Tellingly,

- a. The allegation that the Freetown crimes were committed by the persons released from Pademba Road and the National Stadium was not put to any Prosecution witness during cross-examination;
- b. Nor was it mentioned as any kind of defence in any of the Pre-Trial Brief's of the Accused;
- c. Only three out of the 12 Defence witnesses who were a part of the Freetown invasion have alleged this in their evidence and even they do not corroborate each other on key parts of this story. For example, from where these prisoners at Pademba Road received their weapons.<sup>2323</sup> This defence is a pure fabrication made up at the last minute in a desperate attempt by the Accused to shift liability from themselves to others;
- d. Furthermore, the Defence witnesses, regarding the escaped prisoner story, are unable to explain how it was that the prisoners were released on 6 January but most of the killings, rapes, amputations and burning of buildings occurred during the retreat from Freetown, which was at least two weeks after the release of the prisoners;
- e. The three Accused, through various Defence witnesses, claim that the figure of those released was about 3,000. However, Gibril Massaquoi, on his release from Pademba Road Jail on 6 January, states that only about 1,000 prisoners were

<sup>2321</sup> George Johnson, TF1-167, Transcript 21 September 2005, pp. 49, 56-57.

<sup>2322</sup> DBK-012, Transcript 6 October 2006, pp. 34-35; DBK-005, Transcript 5 October 2006, p. 53; DBK-131, Transcript 11 October 2006, pp. 19-20.

<sup>2323</sup> DBK-005 testified that he personally saw George Johnson handing weapons out to the released prisoners, Transcript 12 October 2006, p. 40. Conversely, DBK-012 claims he was with George Johnson, and George Johnson did not hand out weapons to the prisoners, Transcript 18 October 2006, p. 91.

released.<sup>2324</sup> Gibril Massaquoi also states that Mr. Manly-Spaine, the Defence counsel for the Third Accused, was released with them. However, this defence of the 3,000 released soldiers committing crimes was not put to any of the Prosecution witnesses by Counsel of the Third Accused during cross-examination.<sup>2325</sup>

#### **THE SECOND AND THIRD ACCUSED**

1564. Neither the Second nor the Third Accused has raised the defence of alibi for the attack on Freetown. Neither the Second nor Third Accused has produced any witnesses to say that they were elsewhere during the attack on Freetown.

1565. Instead, the Second and Third Accused, like the First Accused, rely on the Defence witnesses who say that they were under arrest until Benguema or Waterloo and were not seen in Freetown.

1566. The Second and Third Accused also rely on the Defence witnesses who say that most of the crimes in Freetown were committed by the prisoners who were released from Pademba Road Prison and the National Stadium.

#### **ALL OF THE ACCUSED**

1567. The evidence would suggest that it is not in dispute that crimes were committed in Freetown during the invasion, occupation and retreat.

1568. What seems to be in dispute is:

- a. who committed those crimes,
- b. whether the Accused were present or not when the crimes were committed, and
- c. if the Accused were present, whether they held command positions so as to render them liable for those crimes.

<sup>2324</sup> Gibril Massaquoi, TF1-046, Transcript 7 October 2005, p. 113.

<sup>2325</sup> Gibril Massaquoi, TF1-046, Transcript 7 October 2005, p. 113.

## RELIABILITY OF DEFENCE WITNESSES

1569. It is the case of the Prosecution that all ten<sup>2326</sup> Defence witnesses who gave insider type evidence lied in key parts of their evidence and colluded with each other and the Accused in order to ensure that their stories were the same.

1570. In the view of the Prosecution, the Defence insider witnesses, many of whom were former or serving SLAs, were very proud of their profession of soldiering. Thus those aspects which relate to purely soldiering issues such as their training and combat experience up to the May 1997 Coup can be believed.

1571. Likewise, the movement of the troop from Colonel Eddie Town to Freetown as described by the Defence witnesses can be believed as their advance and capture of Freetown, against the odds, was clearly something which they were professionally very proud of.

1572. It is the position of the Prosecution that most of the remainder of the evidence that these insider Defence witnesses give can largely be regarded as untruthful and given in order to protect their former comrades-in-arms.

1573. Such evidence which the Prosecution considers to be manifestly unreliable and untrue relates to:

- a. The apparent ignorance of the Defence witnesses regarding events surrounding and after the Coup and up to the Intervention in Freetown;
- b. For example, their apparent ignorance of who carried out the Coup, why certain soldiers were referred to as honourables, who other AFRC members were. It is implausible that soldiers based in Freetown for nearly nine months, often serving as securities for senior members of the Junta, would not have learnt these basic details;
- c. The apparent ignorance of the fact that any of the Accused held any command positions in the jungle after the Intervention;
- d. That they did not see any of the Accused after the Intervention until they saw them under arrest at Colonel Eddie Town;

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<sup>2326</sup> DAB-023, DAB-018, DAB-095, DAB-033, DBK-037, DBK-005, DBK-012, DBK-129, DBK-131, and DBK-117.

- e. That the Accused remained under arrest from Colonel Eddie Town until they were not seen again after Benguema or Waterloo;
- f. That FAT Sesay held a senior command position throughout the time that the SLAs were in the jungle and that he became overall commander of the troop after the death of SAJ Musa;
- g. That FAT Sesay led the attack on Freetown and that none of the Accused were seen in Freetown during the time of the attack;
- h. That the crimes in Freetown were committed by former detainees at Pademba Road Prison and the National Stadium;
- i. That they did not hear of any crimes being committed by the SLAs during the retreat from Freetown such as the killing, rape, amputation and abduction of civilians and the burning of civilian property.

1574. Even these Defence witnesses failed to corroborate the evidence of the First Accused or each other in many material respects.

1575. For example:

- a. DAB-023 (Aiah Jacob Moseray) refers to the Accused as honourables.<sup>2327</sup> He testified that Savage and Staff Alhaji were SLAs<sup>2328</sup> and that Savage only went mad after he had committed all the atrocities in Tombodu.<sup>2329</sup> He said George Johnson handed over the muster parade to SAJ<sup>2330</sup> (the First Accused claims that it was FAT Sesay<sup>2331</sup>). This witness does not mention that it was released SLAs from Pademba Road Prison who committed the crimes.
- b. DAB-018 (Mohammed Jabbie) confirms that the position of honourable was a senior position which superseded rank.<sup>2332</sup> As such Honourable Momoh, aka Dorty, was in command of a convoy of 60 or more armed solders including officers from

<sup>2327</sup> DAB-023, Transcript 3 August 2006, p. 39.

<sup>2328</sup> DAB-023, Transcript 31 July 2006, pp. 36, 40.

<sup>2329</sup> DAB-023, Transcript 31 July 2006, pp. 51-52.

<sup>2330</sup> DAB-023, Transcript 31 July 2006, p. 63.

<sup>2331</sup> Accused Alex Tamba Brima, Transcript 13 June 2006, pp. 6-7.

<sup>2332</sup> DAB-018, Transcript 7 September 2006, p. 57.



Kono to Freetown.<sup>2333</sup> This witness does not mention that it was released SLAs from Pademba Road Prison who committed the crimes during the 6 January Invasion of Freetown.

- c. DAB-131 (Moses Rogers) testified that the First Accused was a “big man,”<sup>2334</sup> that it is no secret that the First Accused was a big man,<sup>2335</sup> and that he saw the First Accused with a group of soldiers at Masingbi Road in Kono prior to the Intervention.<sup>2336</sup> This witness did not mention that it was released SLAs from Pademba Road Prison who committed the crimes during the January 6<sup>th</sup> invasion of Freetown.
- d. DAB-096 (Mucter Rogers) testified that he and the prisoners (including the First Accused) were at Waterloo when SAJ died.<sup>2337</sup> According to the First Accused, he was at Benguema when SAJ died.<sup>2338</sup> This witness also did not mention that it was released SLAs from Pademba Road Prison who committed the crimes during the 6 January Invasion of Freetown.
- e. DAB-095 (Tamba Fasuluku, aka Rhino) claims to have never heard of the First Accused,<sup>2339</sup> yet according to DAB-096, it was this DAB-095 who took him to the First Accused’s wedding ceremony in Kono.<sup>2340</sup> DAB-095 believes that Johnny Paul Koroma is called John Patrick despite being his security.<sup>2341</sup> He testified that Commander 0-Five was a part of the advance team with Colonel Eddie<sup>2342</sup> (according to the First Accused, he was arrested by Commander 0-Five and then taken to Colonel Eddie Town, i.e. after the advance party had already arrived<sup>2343</sup>), that FAT Sesay travelled with SAJ Musa to Colonel Eddie Town<sup>2344</sup> (according to the First Accused, FAT Sesay was in command at Colonel Eddie Town before SAJ

<sup>2333</sup> DAB-018, Transcript 7 September 2006, p. 58.

<sup>2334</sup> DAB-131, Transcript 13 September 2006, p. 83.

<sup>2335</sup> DAB-131, Transcript 14 September 2006, p. 66.

<sup>2336</sup> DAB-131, Transcript 13 September 2006, p. 82.

<sup>2337</sup> DAB-096, Transcript 25 September 2006, p. 33.

<sup>2338</sup> Accused Alex Tamba Brima, Transcript 15 June 2006, pp. 11-12.

<sup>2339</sup> DAB-095, Transcript 28 September 2006, p. 47.

<sup>2340</sup> DAB-096, Transcript 18 September 2006, p. 106.

<sup>2341</sup> DAB-095, Transcript 28 September 2006, p. 74.

<sup>2342</sup> DAB-095, Transcript 20 September 2006, pp. 56-58.

<sup>2343</sup> Accused Alex Tamba Brima, Transcript 12 June 2006, pp. 48-50.

<sup>2344</sup> DAB-095, Transcript 28 September 2006, pp. 41-42.

Musa arrived<sup>2345</sup>), the detainees, i.e. the Accused, did not attend SAJ Musa's muster parade at Colonel Eddie Town<sup>2346</sup> (the First Accused says that the detainees attended the muster parade<sup>2347</sup>), and the detainees were at Waterloo when SAJ Musa died<sup>2348</sup> (the First Accused says that the Accused were at Benguema when SAJ Musa died<sup>2349</sup>). This witness did not mention that it was released SLAs from Pademba Road who committed the crimes during the January 6<sup>th</sup> invasion of Freetown.

- f. DAB-033 (Mohammed Tarawally, aka Goldteeth) heard George Johnson tell SAJ Musa that he has arrested AFRC honourables (i.e the Accused), despite the First Accused claiming that none of the Accused, bar the Third Accused, were known as honourables. He claims everyone scattered and escaped at Benguema,<sup>2350</sup> whereas the First Accused states that he and the Third Accused escaped at Goba Water when SAJ Musa was buried.<sup>2351</sup> DAB-033 concedes that FAT Sesay was not physically fit to be at the battle front and was only there to advise.<sup>2352</sup> He also does not mention that it was the released SLAs from Pademba Road jail who committed the crimes during the 6 January invasion of Freetown.
- g. DAB-059 (Idrissa Churchill Kargbo) testified that the First Accused was second in command but because he refused to fight he was left in the dungeon in Kailahun.<sup>2353</sup> He admits that the Third Accused was an honourable.<sup>2354</sup> DAB-059 said that the First Accused was in hospital with malaria after the coup<sup>2355</sup> (according to the First Accused he was in hospital after the Coup on account of a car crash<sup>2356</sup>). This

<sup>2345</sup> Accused Alex Tamba Brima, Transcript 13 June 2006, p. 7.

<sup>2346</sup> DAB-095, Transcript 28 September 2006, pp. 74-75.

<sup>2347</sup> Accused Alex Tamba Brima, Transcript 13 June 2006, pp. 5-6.

<sup>2348</sup> DAB-095, Transcript 28 September 2006, p. 75.

<sup>2349</sup> Accused Alex Tamba Brima, Transcript 15 June 2006, pp. 11-12.

<sup>2350</sup> DAB-033, Transcript 25 September 2006, p. 69.

<sup>2351</sup> Accused Alex Tamba Brima, Transcript 15 June 2006, pp. 27-28.

<sup>2352</sup> DAB-033, Transcript 25 September 2006, p. 99.

<sup>2353</sup> DAB-059, Transcript 27 September 2006, p. 82.

<sup>2354</sup> DAB-059, Transcript 27 September 2006, p. 89.

<sup>2355</sup> DAB-059, Transcript 2 October 2006, p. 7.

<sup>2356</sup> Accused Alex Tamba Brima, Transcript 6 June 2006, p. 42 and Transcript 30 June 2006, p. 44.

witness also said that if you overthrew the government, you claimed to be an honourable.<sup>2357</sup>

- h. DAB-147 (Ibrahim Sorie Manasaray) saw Major Fonti Kanu after Daru in villages,<sup>2358</sup> whereas the First Accused testified that Major Fonti Kanu drove with him from Daru to Kailahun Town where they were both subsequently detained.<sup>2359</sup>
- i. DBK-037 (Mohammed Bangura, aka Jackal) mentioned the release of prisoners at Pademba Road but does not say that when released the prisoners went on the rampage and started committing crimes.<sup>2360</sup> He confirms the concept of bush rank (e.g. prior to the Coup he was a private, but in the jungle he was promoted to a lieutenant, yet now he is serving as an SLA as a lowly lance-corporal).<sup>2361</sup> This indicates that the First Accused being discharged as a corporal does not mean that he could not have held a position of command in the bush. This witness concedes that the First Accused is called Alex Tamba Brima<sup>2362</sup> (the First Accused denied that he was ever called 'Alex'<sup>2363</sup>).
- j. DBK-005 (Alusine Kamara, aka Vamboi) met Woyoh at State House.<sup>2364</sup> According to the First Accused, Woyoh escaped from the troop at Goba Water.<sup>2365</sup> DBK-005 admits that all three Accused were honourables with securities and were all important people.<sup>2366</sup> He admits that all three Accused were members of the Supreme Council of the AFRC<sup>2367</sup> (the First Accused claims not to have been an honourable,<sup>2368</sup> a member of the Supreme Council,<sup>2369</sup> and an ordinary soldier<sup>2370</sup>).

<sup>2357</sup> DAB-059, Transcript 2 October 2006, p. 28.

<sup>2358</sup> DAB-147, Transcript 3 October 2006, p. 52.

<sup>2359</sup> Accused Alex Tamba Brima, Transcript 8 June 2006, pp. 48-49.

<sup>2360</sup> DBK-037, Transcript 4 October 2006, pp. 14-16.

<sup>2361</sup> DBK-037, Transcript 4 October 2006, p. 74.

<sup>2362</sup> DBK-037, Transcript 4 October 2006, p. 76.

<sup>2363</sup> Accused Alex Tamba Brima, Transcript 5 June 2006, pp. 59-61.

<sup>2364</sup> DBK-005, Transcript 5 October 2006, p. 58.

<sup>2365</sup> Accused Alex Tamba Brima, Transcript 15 June 2006, pp. 27-28.

<sup>2366</sup> DBK-005, Transcript 5 October 2006, p. 36 and Transcript 12 October 2006, pp. 8-9, 17-18.

<sup>2367</sup> DBK-005, Transcript 12 October 2006, pp. 18-19.

<sup>2368</sup> Accused Alex Tamba Brima, Transcript 3 July 2006, p. 42.

<sup>2369</sup> Accused Alex Tamba Brima, Transcript 3 July 2006, pp. 23-24.

<sup>2370</sup> Accused Alex Tamba Brima, Transcript 28 June 2006, p. 50-52.

- k. DBK-012 (Hamid Kamara, aka Keforkeh) testified that during the Freetown invasion the First Accused did not come to town but that he was at the front.<sup>2371</sup> The First Accused claims that he was not in Freetown during the Freetown invasion.<sup>2372</sup> Thus, DBK-012 both supports and contradicts the First Accused story at the same time. Another claim of the First Accused is that he was arrested in Yarya by Commander O-Five.<sup>2373</sup> DBK-012 testifies that he met the First Accused as a prisoner in Eddie Town.<sup>2374</sup> DBK-012 also testifies that he was part of the second group led by Commander O-Five to find the advance team that had been sent out by SAJ Musa earlier.<sup>2375</sup> If this is true then DBK-012 would have come across the first Accused in Yarya instead at Colonel Eddie town. This witness also has a motive to lie on behalf of the Accused as he is currently in a relationship with the sister of the Second Accused.
- l. DBK-129 (Kalfala Kamara, aka KBC) was an insider witness who testified that Foday Bah Marah was one of the commanders or fighters at Westside.<sup>2376</sup> This contradicts the First Accused's claim that he fell into the Westside Boys' ambush and was arrested together with Corporal Foday Bah Marah and other soldiers and taken to George Johnson in the Westside where they were detained in a dungeon.<sup>2377</sup> Furthermore, in his testimony DBK-129 made no mention of the First Accused being under detention in the Westside.
- m. DBK-113 (James Vamboi) gave evidence that the Third Accused was told by SAJ Musa to look after the women en route from Colonel Eddie Town to Freetown.<sup>2378</sup> This contradicts the evidence of the First Accused, who claimed that he and the other two Accused were under arrest from Colonel Eddie Town until Goba Water when he and the Third Accused escaped. DBK-113's testimony contradicts the First Accused that the Third Accused was under arrest and also contradicts the Third

<sup>2371</sup> DBK-012, Transcript 9 October 2006, p. 46.

<sup>2372</sup> Accused Alex Tamba Brima, Transcript 5 July 2006. pp. 61-62

<sup>2373</sup> Accused Alex Tamba Brima, Transcript 12 June 2006. pp. 43-44

<sup>2374</sup> DBK-012, Transcript 9 October 2006, p. 108.

<sup>2375</sup> DBK-012, Transcript 5 October 2006, p. 106.

<sup>2376</sup> DBK-129 Transcript 9 October 2006, pp.89-90.

<sup>2377</sup> Accused Alex Tamba Brima, Transcript 16 June 2006, pp.6-12.

<sup>2378</sup> DBK-113 Transcript 13 October 2006, pp 34-35.

19865