



U.C. Berkeley War Crimes Studies Center Sierra Leone Trial Monitoring Program Weekly Report

Special Court Monitoring Program Update #10 Trial Chamber I - RUF Trial 29 October 2004

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Summary Continued examination in chief of Witness TF-078 regarding forced labour (count 13 of the Indictment, charged under Article 2(c) of the Statute) Cross-examination by defense counsel of Witness TF-078 Examination in chief of Witness TF1-355, Mr. Hassan Bility regarding joint criminal enterprise Cross-examination by defense counsel of Witness TF1-355 Order on trial monitoring during closed sessions handed down (27 October 2004)

Summary

The examination in chief of Witness TF-078 resumed on Monday, followed by nearly two days of cross-examination by the Defense. This “crime base” witness continued to testify to the use of civilians as forced labour, a charge brought under Count 13 of the Indictment as a Crime Against Humanity, punishable under Article 2(c) of the Statute [1].

Despite an unprecedented hiatus in proceedings on Tuesday, Wednesday and Thursday, during which the court was intermittently closed due to power shortages, the Prosecution subsequently called Liberian-born journalist Mr. Hassan Bility this week, bringing the total number of witnesses called for the RUF trial to eighteen. Bility’s testimony centered around certain events which he had witnessed and certain conversations to which he had been privy during his residence at the V.P. Road Compound, a two-storey apartment block housing members of the ATU and the RUF, located approximately five miles from Charles Taylor’s residence in Monrovia [2].

In particular, the witness described two arms shipments which arrived at the V.P. Road Compound after August 1998 and on 16 January 1999, respectively. He further described seeing a number of RUF officials as well as Sar Gborlie (a security officer working for Taylor in the national police in Liberia) and Francis Dwana aka “Jack the Rebel” (another of Taylor’s security officers formerly of the NPFL) meeting at the 7-11 Petrol Station in June 1999. The Prosecution affirmed during the proceedings that the witness had been called to give evidence as to the joint criminal enterprise that existed between the RUF and the AFRC.

The Trial Chamber also released its Order on Trial Monitoring during Closed Sessions this week, with a positive outcome for both the national and international trial monitors.

Continued examination in chief of Witness TF-078

After a brief closed session lasting till mid-morning, Witness TF-078 continued to testify to the events which took place in the Kono district from February 1998 to January 2000 this week,

focusing in particular on the treatment of civilians under AFRC/RUF control at Wonedu and Koidu town from December 1998 to December 1999.

Under examination in chief, the witness recalled two instances at the beginning of 1998 where AFRC/RUF rebels were executed at Koidu town for committing the crimes of rape and murder, respectively, against innocent civilians. The witness then went on to describe how conditions for the civilians in the Kono district improved - "from worse to bad" - after the Lome Peace Accord was signed on 7 July 1999. According to the witness, there was less forced labour at Koidu, although civilians were still called upon to conduct food finding missions and supply palm wine to the soldiers. The witness also mentioned that civilians had been called upon to conduct diamond mining, but that this had occurred in January 1999. He did not recall civilians mining diamonds after the Lome Peace Accord was signed.

The fact that the witness testified to food finding missions, the supply of palm oil and diamond mining occurring in this region is significant to the Prosecution's case, because in order to prove the charge of Enslavement brought under the Indictment, the Prosecution must show that, between about 14 February 1998 to January 2000, AFRC/RUF forces abducted hundreds of civilians and "took them to various locations outside the [Kono] District, or to locations within the [Kono] District such as...Koidu" [3] and that at these locations "civilians were used as forced labour, including domestic labour and as diamond miners" [4].

Cross-examination by defense counsel of Witness TF-078

During cross-examination, defense counsel challenged the notion that each of the first and second accused had not taken reasonable measures to prevent crimes committed against civilians in the Kono district [5]. In particular, counsel for each of the first and second accused sought to establish, in both the civilian camps and the towns in the Kono district inhabited by the AFRC/RUF juntas that (a) an amicable and protective relationship existed between the civilians and certain sections of the junta regime (namely, the "G-5" officers) and/or (b) there was no agreed and co-ordinated plan under the regime to commit atrocities towards civilians in the Kono district at this time [6].

Counsel for the first accused also sought to establish that, from January 2000 onwards, Issa Sesay was actively involved in protecting the lives of civilians against the excesses of the juntas. This period is, however, outside the periods listed in the counts of the Indictment relating to the crimes base charges in the Kono district which Sesay faces [7].

Counsel for the third accused focussed on, *inter alia*, the mining of diamonds during 1999 and the evidence of such mining in Koidu town. The witness stated that, while he had not seen ECOMOG mining in the Kono district, he had heard that ECOMOG was mining in the area at this time, potentially bringing into question whether the diamond mining being conducted during the relevant period had (or had solely) been conducted by the junta-led forces.

Treatment of civilians at AFRC/RUF camps in the Kono district between about February 1998 and January 2000

As well as presuming a joint criminal enterprise in order to establish its case [8], the Prosecution is seeking to prove the command responsibility of each of the accused [9]. Namely, that each of the accused held positions of superior responsibility and exercised effective control over each of their subordinates, in that they "knew or had reason to know that the subordinate was about to commit such [crimes] or had done so" and subsequently, that "each [A]ccused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof" [10].

Counsel for each of the accused directed their cross-examination of Witness TF-078 towards the treatment of civilians in the AFRC/RUF camps and AFRC/RUF controlled areas between February 1998 and January 2000. Defense counsel sought to show that, at each of the civilian camps in the Kono district, there was (a) an established system of rules for the punishment of vigilante soldiers who committed crimes against civilians and (b) that the treatment of civilians in these camps was of concern to certain sections of the AFRC/RUF high command, including those accused.

Witness TF-078 testified under cross-examination to there being established rules of conduct within the camp at Kunduma. He further testified that the rebels were aware that they would be flogged or further punished for such unacceptable acts. For the period that the witness was with the junta forces in civilian camps (namely, between 1998 and 2001), the witness could recall two incidences where soldiers killed civilians in the camps, the first being the execution of a Nigerian woman who had been a long time resident of Sierra Leone and the second to which the witness testified during closed session.

Under cross-examination, the witness repeatedly offered examples of the benefits to the civilians of the civilian camps, which he alleged were guarded by RUF/AFRC. These examples included the following: (a) families were not separated and allowed to stay together in the camps (b) food-finding missions were treated as a reciprocal service performed by the civilians (who were accompanied by the soldiers), for the protection offered by the camp to the civilians against enemy forces and (c) a generally friendly atmosphere at the camps.

Role of the "G5" officers, Issa Sesay and Morris Kallon

The witness gave further evidence regarding the importance of the "G-5" officers to the junta regime which tended to support the premise that the treatment of civilians within the camps was of concern to certain members of the AFRC/RUF high command. According to Witness TF-078, the "G-5" officers (whom the witness also referred to as the "social welfare" officers and the "social welfare" unit) acted as the liaisons between the civilians and junta senior commanders. They fielded the various concerns and complaints of such civilians in the RUF/AFRC camps. The witness testified that the "G-5" officers would speak to the civilians on a daily basis and would subsequently report civilian complaints to the high commanders.

The witness also extensively testified to Issa Sesay's involvement in improving the conditions of civilians living in the Kono District from early 2000 onwards. Although the witness met Sesay at Meiyu (the military headquarters of the juntas or "Superman's ground") in December 1998, it was only for the period during and after 2000 that the witness testified to Sesay's involvement in the protection of civilians.

According to the witness, Issa Sesay protected the lives of civilians (including the witness) against the excesses of his fighting men during his stay in Kono. Sesay was allegedly against the looting of civilian property and sought to prevent looting in Koidu and Makeni. Furthermore, according to the witness, Sesay was also against the killing and raping of civilians and wanted them to live peacefully in RUF controlled zones. The witness further testified that Sesay was willing to punish and did punish junior officers under his command for crimes committed against civilians in relation to all the RUF areas under his control. Sesay undertook to do so, despite the fact that these actions put him into conflict with other senior RUF commanders including Dennis Mingo aka "Superman" who, according to what the witness had heard from Sesay, had attempted to kill Sesay in Makeni in 2000. It remains to be seen how this testimony will be determined to affect the charges against Sesay, given that such charges, as they pertain to Sesay's actions in the Kono district, relate to an earlier time period.

The witness also further testified to Morris Kallon having a very good relationship with the civilians during the period of 1998-2001. According to the witness, it was under Kallon's command that junior officers of the RUF were able to provide protection to the 700 civilians based at the camp at Wonededu.

The witness alleged under cross-examination that Kallon himself was not the overall commander of the Kono district at that time and that he was answerable to Dennis Mingo aka "Superman". It appeared that counsel for the second accused was alluding to the fact that it was Kallon the commander who bore the greatest responsibility in this instance.

Examination in chief of Witness TF1-355, Mr. Hassan Bility, regarding joint criminal enterprise

In continuing its attempt to prove the alleged joint criminal enterprise that existed between the RUF and AFRC, the Prosecution called Witness TF1-355, Mr. Hassan Bility, a journalist and editor originally from Liberia, who was living and working in Monrovia both before and during the period of the junta regime in Freetown, and thereafter until June 2002.

Mr. Hassan Bility's history

Mr. Hassan Bility testified to being a prominent journalist and editor in Monrovia who was known for his critiques of the actions of the Liberian government during the latter half of the conflict in Sierra Leone [11]. He is now living and working overseas [12]. During the period from August 1997 to June 2002, Bility worked as the editor of *The National Newspaper* (August 1997 - September 2000) and first as news editor and subsequently editor-in-chief of *The Analyst Newspaper*. Bility also worked as the editor of the official newspaper of Liberia, an umbrella organisation representing the Liberian media and served as the press officer of the European Commission under the leadership of Ambassador Brian O'Neill. He also worked as a representative of the London-based *International Alert*, writing stories about the need for peace in Liberia (2001 to June 2002).

Bility testified that he was arrested seven times between 1997 and 2002, allegedly due to his publication of articles that were critical of the Taylor government. He was first arrested shortly after August 1997 for writing and publishing an editorial in *The National Newspaper* entitled "Who is the Judas in ECOWAS?" criticising President Taylor for pretending to be interested in the resolution of the Sierra Leonean crisis while simultaneously thwarting the peace process and the efforts made by ECOWAS to resolve it. Shortly after the article was published, Bility was arrested by plain clothes policemen and taken to Taylor by the Director of Police. Taylor allegedly told the witness that if he kept meddling in the Liberian government's affairs with the RUF and the war in Sierra Leone, he would personally stop him. He was then allegedly beaten by his arresting officers and held for two days at the Ministry of Justice in Monrovia. The witness's final arrest occurred on 24 June 2002.

Arms shipments allegedly seen in Liberia and evidence of collaboration between the AFRC and the RUF

Under examination in chief, the witness testified to having seen three separate arms shipments being delivered to, or collected by members of, both the RUF and the AFRC. Two of the instances the witness described allegedly occurred at the V.P. Road Compound where the witness lived (as the only civilian) along with members of the ATU and the RUF and occurred before Christmas 1998 and on 16 January 1999. The third instance described by the witness allegedly occurred at the 7-11 Petrol Station, a service station regularly frequented by Liberian government officials, in June 1999.

Before Christmas 1998. During the incident which allegedly occurred before Christmas 1998, Bility stated that he saw a number of Sierra Leonean soldiers coming to the V.P. Road Compound carrying a consignment of 20 AK-47s which were revealed from under a tarpolan at the back of a jeep. The soldiers were visiting Kennedy aka "K1", an RUF officer. The witness allegedly remembers a specific conversation which he had with Kennedy in November 1998 where Kennedy informed the witness that there was to be a new government in Freetown. According to the witness, Kennedy stated that "with the help of Papay (aka Charles Taylor) [the RUF] will succeed."

16 January 1999. Bility alleged that on 16 January 1999, he saw Moussa Sesay escort Issa Sesay and Sam Bockarie to the compound. According to the witness Issa Sesay and Sam Bockarie were each in separate military coloured jeeps and they drove into the V.P. Road compound at around 5pm. When they entered the compound, certain of the security guards as well as the witness's cousin, Abu, who also lived at the compound lifted a tarpolan on the jeep in which Issa Sesay sat and said, "We've got raw bitches", meaning they had new weapons.

Bility alleged that they had come to the compound to see Sam, Benjamin Yeatan's driver, who lived at the compound and who was leading a convoy of cars from Monrovia to the Sierra Leonean border. According to Bility, Sam held a pass signed by Charles Taylor which gave the convoy access through the checkpoints to their destination.

June 1999. The witness testified that in June 1999, he saw a number of the members of the RUF high command, including Sam Bockarie and Issa Sesay, enter the 7-11 petrol station in trucks and stop for fuel. According to the witness, Bockarie, Sesay and other members of the RUF were at the 7-11 with Sar Gborlie, one of Taylor's officials working for the National Police in Liberia and Francis Dwana aka "Jack the Rebel", a security officer who had formerly worked for the NPFL and who allegedly carried out dangerous and deadly orders on behalf of Charles Taylor.

The witness alleged that the group of rebels were on a mission to the Sierra Leonean border. While at the 7-11, a station attendant pulled back a tarpolan on the truck to reveal about 60 AK-47s. The man who did this was publicly beaten, under the order of Sar Gborlie and Jack the Rebel. The witness further alleged that, upon obtaining the fuel from the 7-11 they took the main road to Sierra Leone through Lofa County.

The evidence given by Bility is alleged by the Prosecution to have pointed to collaboration between the RUF and officials under Taylor's command during 1998-1999. The alleged incidents described by Bility can be perceived as supporting the allegation that Taylor and his subordinates were acting in concert with the RUF, through the supply of ammunitions to RUF officials who allegedly carried such arms back to Sierra Leone, to support the RUF's activities to gain control in Sierra Leone.

Cross-examination by defense counsel of Witness TF1-355

Defense counsel sought to dismantle the credibility of Bility's testimony by asserting that, given Bility's prominence as a journalist and editor and his repeated arrests between 1997 and 2002, it would be improbable that members of the RUF and the AFRC would have (a) disclosed information to him regarding their collaboration and/or (b) allowed Bility to witness the delivery of arms shipments and the meetings which took place at the V.P. Road compound. The Defense further questioned why Taylor (and members of Taylor's regime) who had called for Bility's arrest would allow Bility to reside at the V.P. Compound at all.

Counsel for the second accused also posited the argument that the RUF forces were fighting with Liberian government forces against the Liberians United for Reconciliation and Democracy (LURD) during the time Bility witnessed the movement of arms from the V.P. Road Compound

and the 7-11. He put it to the witness that Bility was, in fact, witnessing shipments of arms for their joint projects against the LURD in Lofa County, Liberia. The witness disagreed with this proposition, stating that the war in Lofa County began on 24 April 1999 and that the incidences he had witnessed dated as far back as late 1998.

Counsel for the third accused further questioned Bility on whether he had been approached by any United States government agencies and/or security services with regards to supplying such agencies with information that related to the evidence given by him to the Prosecution.

Questioning Bility's credibility as a witness

Defense counsel pointed to numerous discrepancies between Bility's *viva voce* testimony and witness statements as evidence that Bility was being "less than honest" during the course of his testimony. This included various discrepancies in the temporality of events and the names of articles which the witness had written which prompted his arrests.

The veracity of Bility's testimony was further called into question by the Defense when they alleged that it seemed questionable that members of the RUF and Taylor's regime would allow him to live amongst them, given he had previously been arrested for publicly commenting on Taylor's participation in the Sierra Leonean conflict. Counsel for the third accused pointed to the fact that Bility had been arrested and interrogated by Taylor just seven months before he allegedly moved into the V.P. Road compound. He asked the witness why any of Taylor's men would subsequently allow for an investigative journalist, the only civilian, who had been arrested by the government for whom they worked, to live in their compound. The witness stated that he did not think many of the people living at the compound knew who he was. This was despite the fact that after his arrest seven months earlier, he had been discharged in the presence of the media. In his final statements, counsel for the third accused put it to Bility that his evidence as to his residence at the V.P. Road compound was "far-fetched and fanciful".

Links with United States government departments and agencies

Under cross-examination by counsel for the third accused, Bility refused to answer questions as to whether or not he had been (a) interviewed by the CIA, the FBI or any other United States government departments, bureaus and/or agencies independently or (b) asked to provide any information by such government departments, bureaus and/or agencies concurrently, at the time at which he was being interviewed by the Prosecution. Bility did, however, state under cross-examination, that the supply of diamonds to the Islamic terrorist group, Al Qaeda, was raised by Dr. Alan White (of the Prosecution) during the interviews conducted by Dr. White in November 2003.

The Defense appeared to be suggesting that the Prosecution's investigation and their questioning of Bility may not have been conducted entirely independently, or at least, that the witness had concurrently provided information to the Special Court as well as United States departments, bureaus and/or agencies. The Defense posited an analogous argument during their cross-examination of General Tarnue in the weeks ending 8 and 15 October 2004. In that instance, Tarnue testified under cross examination to having been interviewed in the presence of FBI agents in Ghana in 2002.

Order on trial monitoring during closed sessions handed down (27 October 2004)

The Trial Chamber released its order with regards to trial monitoring during closed sessions this week. The Trial Chamber ordered that, pursuant to Rule 79 and in particular Rule 79 (C) of the Rules, that each of (a) one international monitor and (b) one national monitor, would be able to attend closed sessions. The Chamber ruled further that the monitors would report only on the

practice and procedure of the court during the closed session and that they would seek the approval of the Registrar before reporting on such practice and procedure.

This was the final week in the RUF trial for this year. Proceedings for the RUF trial will resume with a status conference on Monday, 10 January 2005.

- 1.) Each of the accused are charged under Count 13 of the indictment with Enslavement, a Crime Against Humanity, punishable under Article 2(c) of the Statute.
- 2.) In the case of the RUF, this included an employee of the Battlefront Commander of the Liberian government soldiers, Benjamin Yeaten (namely, his driver).
- 3.) Amended and consolidated indictment dated 13 May 2004, at paragraph 70.
- 4.) Ibid.
- 5.) Augustine Gbao was not mentioned at any time by this witness.
- 6.) This witness gave evidence primarily about the civilian camp at Wonededu.
- 7.) The charges of the indictment specifically mention alleged crimes committed in the Kono District under Counts 3- 11, 13 and 14. None of these charges specifically mention crimes committed in the Kono District after January 2000.
- 8.) See Special Court Monitoring Program Update No.9 dated 22 October 2004, at (ii) Cross-examination by defense counsel - Challenging joint criminal enterprise and command structure.
- 9.) As defined under Article 6 of the Statute for the Special Court for Sierra Leone.
- 10.) The crimes being those referred to in Articles 2,3 and 4 of the Statute.
- 11.) Under cross-examination by counsel for the second accused, the witness stated that he began working as a journalist in 1993, but only began writing articles which were critical of the Taylor government after 1997.
- 12.) In accordance with witness protection measures afforded to the witness, the location of the witness's current residence has been protected and was not disclosed during his testimony.



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