



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

**Special Court Monitoring Program Update #27
Trial Chamber I - RUF Trial 18 March 2005**

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Status conference Witness protection and welfare: witness concerned with the translation of his testimony Determining the age of child combatants: what constitutes a “child”? Witness profiles at a glance Evidence at trial

After a three-week recess for the Easter break, the RUF trial commenced its fourth session this week, with the prosecution calling its twenty-sixth witness. The trial session opened on Wednesday with the Honourable Judge Itoe “welcoming back this family” after a long break. Calling upon divine intervention, his Honour then added that the Chamber hoped “the Lord God will endow [us] with the energies to be able to scale through the six weeks that lie ahead...”

Witness TF1-263, allegedly a former child combatant who was captured by the RUF in Kono, was the only witness that testified this week. Key issues that arose during the course of proceedings included the significance of establishing the exact age of child combatants, the lengthiness of examination-in-chief and cross-examination and the affect the timing of the Chamber’s release of decisions has on a witness’s ability to testify.

Status conference

A brief status conference was held on Tuesday, during which his Honour Judge Thompson noted that both direct and cross-examination of witnesses had appeared unduly lengthy and repetitious during the last trial session. His Honour urged counsel to co-operate in ensuring a fair and expeditious trial for the accused persons. Working towards this end the prosecution had reduced its total number of witnesses from 266 to 98.

The timing of the Chamber’s rulings in response to motions was also the subject of some tension and debate. The prosecution noted that due to an outstanding ruling on a defense application for leave to appeal, Witness TF1-141 had on three occasions been forced to come to court with the expectation that he would be testifying, without being able to do so. On each occasion the witness had been separated from his family and was unable to attend school. Judge Thompson later identified a further five motions that were still pending, all of which were to be issued “shortly”.

Witness protection and welfare: witness concerned with translation of his testimony

The prosecution announced on Friday that Witness TF1-263 had felt uncertain that his testimony was being accurately translated. According to the prosecution, the witness had disclosed his concerns to the court's psychologist after testifying on Thursday. Upon being further questioned by his Honour Judge Thompson, the witness noted that the interpreter from the previous day had not interpreted his answers from Kono to English well. Judge Thompson noted that it was "eminently in the interests of justice" that both the prosecution and defense let the bench know if ever they feel that translation has become a problem. The issue became particularly significant in this instance as the witness is allegedly a former child combatant and the translated testimony in question related to his age. The witness was able to clarify the issue during the session on Friday.

Determining the age of child combatants: what constitutes a child?

The Special Court's Statute gives the court with the power to prosecute persons with "conscripting or enlisting children *under the age of 15 years* into armed forces or groups (or using them to participate actively in the hostilities soldiers)" [emphasis added]. The three accused in the RUF trial are each charged (under count 12 of the indictment) with being individually criminally responsible or (in the alternative), having knowledge and effective control over commanders who were responsible, for the conscription of child soldiers. As such, the age of witnesses alleged to be child combatants during the conflict has become a highly significant issue at trial.

The issue arose again this week, as Witness TF1-263, an alleged former child combatant, testified first to being 14 at the time of his capture by the RUF in 1998, but then under cross-examination by counsel for the first accused, stated that the year of his birth was 1983 (hence making him 15 at the time of capture). This was further evidenced in a statement the witness had given upon which he indicated his date of birth as being 1983. The witness later testified that he had been confused by the translation of the question asked by counsel and clarified further that his date of birth was 1984. His testimony in this regard may impact upon the Chamber's ultimate determination of his status as a "child" and hence may significantly affect the degree of evidence that supports charges against the accused under count 12.

The prosecution also extensively questioned the witness about the age of other child combatants in the RUF. To establish that these other children were the same age or younger than the witness, the prosecution asked the witness how many other combatants were about the same height as he was. Yet using height to determine the age of a child seems open to criticism, given the heights of adolescent boys between the ages of 12 and 18 can vary greatly.

Given cultural perceptions of age in the context of Sierra Leone, where concepts of child, youth and adult are not solely measured in years and where ages of members of the community are not always known, determining age based on a Western understanding seems to have hampered the prosecution's ability to prove its case in this regard. The arbitrary nature of the "under 15" rule in the Statute may potentially preclude a large proportion of witness testimony about alleged former child combatants as being determined as credible evidence of the age of combatants.

Witness profiles at a glance

Witness TF1-263 is 21 years old and was born in Koidu Town. He has three brothers and three sisters. The witness testified in Kono.

Evidence at trial: Testimony of Witness TF1-263

Witness TF1-263 was allegedly 14 years old when three rebels "speaking Liberian English" captured him and forced him to join the RUF as a child combatant. According to the witness, the capture occurred during an attack on his village in Kono in February 1998. The witness was then forced to work at an RUF camp in Kissy Town [1] where he pounded rice and undertook other

domestic duties for “Wallace”, alleged und cross-examination to be a member of the Special Task Force. At the time of the witness’s capture, the camp was said to be under Superman’s command.

The witness alleged that there were also civilians living at camps at PC Ground [2](allegedly under “General Issa’s” command, whom the witness later agreed was Issa Sesay) and Banya Ground (allegedly controlled by Morris Kallon). He further alleged that the first accused was the commander in charge (or the “overall boss”) of the three camps. Under cross-examination, counsel for the first accused sought to establish that Superman was the overall commander of the Kono district at this time. He also sought to establish that PC ground was also known as Superman’s ground and was controlled by Superman (and not Sesay, as was alleged). The witness stated he had never heard of a station know as Superman’s ground and continued to assert that Sesay was in charge of the camps in Kono at this time.

Alleged killings by Sesay and Kallon

The witness spoke of two alleged incidents that directly implicated each of the first and second accused as committing unlawful killings, a crime under Counts 3-4 of the Indictment. He described seeing Issa Sesay pointing a gun at five naked civilians and returning later to find they had been killed [3]. He had also heard from a friend that Morris Kallon had shot and a boy for killing a goat and saw the boy dying.

Alleged training at Camp “Lion” (Buedu)

According to the witness, Sam Bockarie (aka “Mosquito”) ordered the civilians based at PC Ground, Banya Ground and Kissy Town to be taken to Kailahun to be trained to fight against ECOMOG forces. He was one of six child combatants taken to Camp “Lion” in Buedu (Kailahun district) as part of a group of two hundred civilians that left from PC Ground led by RUF combatants “Five-five” and “Blood”.

While in Buedu, the witness allegedly trained with nine other child combatants [4]. The witness described how he was taught by a training officer named Monika, who lectured the children on how to burn houses, attack villages and use guns. According to the witness, the trainee child combatants were subsequently given AK-47s. Under cross examination, defense counsel alleged that the witness was lying about being at a training camp at Buedu, arguing in the alternative that Monika was a training commander at a camp in Bunumbu (approximately 14 miles away). He further alleged that the witness was never trained as a child combatant, but was a domestic helper for Wallace’s family throughout his time with the RUF. The witness vehemently denied lying.

“Operation No Living Thing” and attacks on Koidu and Mongo

The witness testified to fighting at Koidu as part of “Operation No Living Thing”, an operation that he was told was ordered by the first accused, Issa Sesay. Sesay is alleged to have been in Kono during the attack on Koidu town [5]. The witness then continued, describing his movement with Wallace from Koidu to Tombodu and then onto to Krubola and Mongo, as part of Superman’s group. The group met Savage at Tombodu and the witness saw bodies floating in the Savage Pit.

Under cross-examination, counsel for the first accused argued that Superman was acting autonomously and outside the chain of command and control at this time. The witness agreed that Superman was “doing his own mission” in Tombodu and Krubola and no longer taking orders from Mosquito. Sesay and Superman were also alleged to have fallen out at this time. The existence of splinter or factionalised groups within the RUF seems to be emerging as a theme in cross-examination, the theory being that the accused did not have effective control of these factions at the time certain atrocities were committed.

According to the witness, Superman's group followed the advance team, who were "killing civilians in their path". The group met with SAJ Musa, General Bropleh and "SLA Five-five" at Krubola. Superman and SAJ Musa are alleged to have led the attack on Mongo.

Offensives against ECOMOG

After the offensive at Mongo, the witness described a split in the group that had followed Superman. The witness remained with Superman and Wallace at Kabala, where the RUF/SLA forces allegedly launched two unsuccessful offensives against ECOMOG. SAJ Musa and Five-five ordered other rebels to go on to Freetown at this time. While the attacks were unsuccessful, the rebels and junta captured civilians from the town, who were taken to Koinadugu under the orders of SAJ Musa. They were allegedly trained for combat there.

From Koinadugu, the rebels and juntas are alleged to have travelled to Makeni via Binkolo, where they launched a further attack on ECOMOG. The witness alleged that he was a bodyguard for "Blood", a radio operator, and that he was in charge of carrying weapons for him while at Binkolo. Blood allegedly received a message that the first accused was at Magburaka, heading for Makeni, and that he had commanded his troops to attack Makeni as part of "Operation No Living Thing". Superman's party also joined the offensive. The attack is alleged to have last three days and to have been successful. Looting of the town is alleged to have started shortly thereafter.

According to the witness, during the alleged attack on Makeni, Five-five is said to have contacted Superman via radio requesting reinforcements. Issa Sesay is alleged to have order the soldiers from the "Northern Jungle" (the RUF station at Kabala) to go to Lunsar. All those from Kono (Kono jungle) were to head to Freetown.

Under cross examination, the witness agreed that he had heard while in Lunsar that Sesay had passed laws in Makeni to ensure civilians were protected. The witness also agreed that in-fighting between Superman and Sesay led to Sesay being pushed out of Makeni by Superman in the first dry season of 1999. Rambo was killed during the attack. Looting ensued and civilians were also terrorized in the surrounding villages as a result.

UNAMSIL peacekeepers

The witness also alleged that he saw Issa Sesay arresting the UNAMSIL peacekeepers in Makeni. According to the witness, Sesay had ordered their capture.

- 1.) Under cross-examination, the witness alleged that Kissy town is a small village between PC Ground (at Meiyor village) and Koidu town in the Kono district.
- 2.) PC Ground is alleged by the witness to have been the name for the RUF occupied area in and around Meiyor village, Kono district.
- 3.) Under cross-examination, counsel for the first accused attempted to establish that the witness would have been unable to identify Sesay at the time the civilians were shot. He pointed to discrepancies in the witness's statement in order to support this argument. The witness maintained that he knew it was the first accused who had committed the alleged murder.
- 4.) The witness stated he didn't know the ages of the other combatants, but they were about the same height as he was.
- 5.) Under cross-examination, counsel for the first accused attempted to establish that Issa Sesay was not in Kono at any stage from February / March 1998 to December 1998. He pointed to

discrepancies in the witness's statements regarding who told him that Issa had ordered the attack in order to dismantle the witness's credibility. The witness was adamant that Sesay was in Kono and had ordered the attack.



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This publication was originally produced pursuant to a project supported by the War Crimes Studies Center (WCSC), which was founded at the University of California, Berkeley in 2000. In 2014, the WCSC re-located to Stanford University and adopted a new name: the WSD Handa Center for Human Rights and International Justice. The Handa Center succeeds and carries on all the work of the WCSC, including all trial monitoring programs, as well as partnerships such as the Asian International Justice Initiative (AIJI).

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