



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

**Special Court Monitoring Program Update #28
Trial Chamber I - RUF Trial 25 March 2005**

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Witness profiles at a glance Continued cross-examination of Witness TF1-263 Testimony of Witness TF1-141 RUF Operations Kallon alleged to remove pregnant woman's foetus Cross-examination by counsel for the first accused Legal and procedural issues

After being asked to come to the Special Court on several occasions to testify without being able to do so, Witness TF1-141, the twenty-seventh witness in the prosecution's case, was finally able to testify this week. In accordance with the protective measures ordered by the Chamber for vulnerable witnesses, this alleged former child combatant testified via closed circuit television. Perhaps due to nervousness, the witness had to be asked repeatedly over the course of his examination-in-chief to slow down the pace with which he recounted his testimony. The witness also admitted on several occasions that he was unable to determine the length of time he had stayed at various locations, nor the month during which various events occurred, making it at times difficult to follow him. Witness TF1-141 was the only witness called this week, with a lengthy two-day cross examination by counsel for the first accused following his evidence in chief, despite warnings from the bench that all counsel should endeavour to be expeditious.

Other issues that arose at trial this week were the extent to which the payments received by prosecution witnesses may motivate them to testify and the age of child combatants, both of which are discussed in this report.

Witness profiles at a glance

Witness TF1-141, a child witness, is 18 years old and testified via closed circuit television. The witness was born in Koidu town and attended school until fifth class. The witness has been diagnosed as having post-traumatic stress disorder. He testified in Krio.

Continued cross-examination of Witness TF1-263

Proceedings began on Monday with the continued cross-examination of Witness TF1-263. Counsel for the second accused, Morris Kallon, sought to establish that there were several combatants referred to as Kallon in the RUF. He questioned whether the witness knew any of these other commanders and subsequently alleged that the commander who had committed the atrocities the witness had spoken of was not his client. The witness denied knowing any of the other commanders.

Counsel for the third accused briefly questioned the witness regarding his knowledge of the presence of military police in Kono and Makeni. The witness testified that he did not know of any military police in Kono, but that in Makeni, they had been responsible for ensuring that the “laws” allegedly passed by Sesay (prohibiting burning, looting and rape in the town) were enforced. Seemingly showing solidarity with defense counsel for Sesay, his cross examination seemed to assist solely the first accused.

Testimony of Witness TF1-141

Initial capture at Koidu Town

Witness TF1-141 was allegedly captured by the RUF in early 1998 during a rebel attack on Koidu town. The witness became one of several child combatants or small boy units (SBUs) under the command of Akisto, alleged to be Morris Kallon’s bodyguard. Both Sesay and Kallon were allegedly involved in the attack. The witness undertook food finding missions during which he witnessed several civilians being killed and women being raped or forced into marriage with the commanders. In particular, Morris Kallon is alleged to have “married” a young girl from the bush surrounding Guinea Highway.

According to the witness, the RUF conscripted civilians at Koidu town to help them loot the town and carry the property to their base at Kailahun. Civilians who became tired from carrying heavy loads were executed. Bockarie is alleged to have been in radio communication with the second accused, Morris Kallon, and to have ordered the looted items to be brought to him at “Burkina” ? a code word used by RUF commanders for various towns in the Kailahun district at various points in time. The witness then travelled with RUF combatants lead by Johnny Paul Koroma from Koidu town to Baoma, where the combatants handed over all the looted property to Bockarie at a muster parade. The property was loaded onto trucks by civilians and allegedly taken to Buedu, where Bockarie was based. From Baoma, the witness travelled to Kailahun town and then on to the Camp “Lion” training base at Bunumbu. Upon arrival at Kailahun town, the witness alleged that he was taken to “H5” headquarters, where he was introduced to “Colonel Gbao”, alleged to be a G-5 commander (or civilian liaison) at the time.

Alleged training at Camp Lion (Bunumbu)

The witness testified to being a member of the “Ranger Squad” at Camp Lion. The squad comprised of Small Boy Units (SBUs) and some “big brother” combatants. In this regard his testimony contradicted the testimony of Witness TF1-263 and supported the defense’s theory of the location of the camp. Practical Training Instructors or “PTIs” trained the combatants.

According to the witness, SBUs were made to undergo three preliminary stages of training. First, combatants would be taught how to dismantle and reassemble a gun. Next, the combatants were taken to a circular structure known as “alaka” which they would be asked to pass through, being severely beaten by their PTIs at each end. During the final stage, known as FFAP or “Firing From All Positions”, combatants would be asked to lie on the ground while commanders fired at them, the object of the exercise being to test the new combatant’s ability to dodge bullets. According to the witness, several combatants were killed during the second and third stages of training.

The witness also testified to the existence of Small Girls Units or “SGUs” at Camp Lion. He further testified to being drugged ? that is, “injected with medicine that made him sleep for three days” - after he had completed his initial training. CO Issa or “Povei” is alleged to have visited the training base and addressed the SBUs and SGUs. According to the witness, during his address the first accused threatened to execute the child combatants who failed to do as they were ordered.

Offensives in Kailahun and Kono

The witness could not remember how long he stayed at the Bunumbu training camp, but recalls that it was a long time. From Camp Lion, the witness went on to fight in an offensive to capture Daru, occupied by ECOMOG at the time. Sam Bockarie (also known to the witness as “Master” and “Skinny”) is alleged to have been leading the offensive. The witness identified several other boys his own age in his company [1]. The witness subsequently fought in missions in the Kailahun district including offensives against ECOMOG at Manowa and Segbwema. The RUF were also alleged to have captured the towns of Bunumbu and Koindu Ngeiya (the latter of which is in the Kono district).

Murder of Fonti Kanu and receipt of arms shipments

The witness testified that the first accused, Issa Sesay (or “Povei”), killed an SLA soldier, Fonti Kanu, at a muster parade in Buedu. According to the witness, “Jungle Charges” were laid against Fonti Kanu for failure to follow instructions (FFI) and having a difference of intention (DI). He understood that Povei was in charge at the RUF defense headquarters and Buedu when Sam Bockarie aka “Master” was not there. Sesay allegedly threatened to kill combatants who disobeyed orders at the meeting.

In another instance, Witness TF1-141 also testified to seeing two alleged arms shipments arrive at Sam Bockarie’s house. Bockarie was in Buedu at the time and, according to hearsay evidence, Charles Taylor aka “Papay” is alleged to have accompanied the delivery.

RUF Operations

The witness spoke of several operations undertaken by the RUF throughout Sierra Leone. In particular, he alleged that he knew or had participated in Operation “Born Naked”, Operation “Spare No Soul” and Operation “No Living Thing”.

Operation “Born Naked”

Operation “Born Naked” allegedly comprised a series of “ad hoc” or spontaneous attacks ordered by the second accused, Morris Kallon, during which combatants would strip naked and burn and loot property. Kallon is alleged to have ordered two attacks of this nature that the witness knew about. The first attack occurred at Koidu town, during which the rebels stripped naked and fought against SLA combatants who had occupied a bank at Opera. The rebels involved in the attack subsequently robbed the bank and took the proceeds to their base at Guinea Highway. Kallon is said to have launched a second attack as part of Operation “Born Naked” after the RUF captured Nyiama Joru (Kenema District). As they were retreating from Nyiama Joru, combatants were further ordered to execute civilians they saw. The order was given by Major Tolo, who is alleged to have said that “Master” had given the order to do so. The witness identified the term “Master” as being an alias for Morris Kallon, despite the fact that he had already identified Sam Bockarie as being “Master” in another instance.

Operation “Spare No Soul”

The witness also testified to participating in offensives launched as part of Operation “Spare No Soul” at Jokibu and Bunumbu. As the name suggests, combatants were ordered to execute all civilians and enemies in their path. According to the witness, the first accused, Issa Sesay, gave the instructions for this operation via radio communication from Buedu. The witness further testified that combatants burned and looted houses and raped women during the attacks on these towns. Under cross-examination the witness testified that nearly all the civilians had escaped the towns for the bushes when these offensives were launched. Defense counsel

argued that Sesay had ordered the attacks knowing the civilians were no longer occupying these villages. The witness denied knowing Sesay's motivations, but suggested that Sesay would not have known the civilians had fled the town at the time he gave the order.

Operation "No Living Thing"

The witness was a combatant in the offensive that launched a second attack on Koidu town, Kono district as part of Operation "No Living Thing". The offensive was launched after the witness had been in Buedu for some time. According to the witness, as was common for other offensives, combatants were divided into three teams: the advance team, the "bulldoze" team and the rear team. The witness was part of the bulldoze team. Sam Bockarie allegedly ordered the mission. The first accused, Issa Sesay was alleged to be in Koidu town with the combatants at the time of the attack. Troops were subsequently sent from Koidu Town to reinforce the SLA at Makeni.

Kallon alleged to remove pregnant woman's foetus

The witness also alleged that while on a food finding mission with Morris Kallon in Tombodu, RUF commanders placed bets on whether a pregnant female civilian was carrying a male or female child. According to the witness, the commanders forcibly held the woman down while Morris Kallon and another unidentified combatants slit the woman's stomach open. A third commander then removed the foetus by inserting the butt of his bayonet into the woman's stomach. The foetus was subsequently cut in two.

Cross-examination by counsel for the first accused

In a lengthy cross-examination that spanned the course of two days, counsel for the first accused sought to dismantle Witness TF1-141's credibility by pointing to various inconsistencies between the witness's statements and his oral testimony. The witness defended these inconsistencies by asserting that when he gave his original statement in 2003, he did not trust the prosecution and did not feel as comfortable discussing the events that had occurred as he had in recent months. He stated that he now felt comfortable enough with the lawyer from the prosecution to tell his entire story. He also admitted to lying about his age at disarmament because combatants above the age of 18 received material benefits that child combatants were not eligible to obtain.

Counsel for the first accused further sought to show inconsistencies between the witness's most recent statements and his original statement in 2003. Counsel for the first and third accused had each made oral submissions during the last session of the RUF proceedings contesting the admission of these additional pieces of evidence. The Chamber ruled against the exclusion of the evidence [2]. Counsel for the first accused had primarily based his submission on the grounds that the evidence embodied in the witness's most recent statements should have been served on the defence prior to the beginning of trial, rather than as part of the court's continuous disclosure regime. This included seven alleged "new" pieces of evidence, including the allegations: that the first accused was present at the Bunumbu training ground (Camp Lion) and gave orders of any kind; that Sesay was present in Koidu town at the time of the witness's capture; and that Issa Sesay killed Colonel Fonti Kanu, all of which were alleged by the witness under examination in chief [3]. The Chamber delivered a short oral ruling on the defense's leave to appeal the ruling against the exclusion of the evidence. Application for leave to appeal the decision was denied.

Legal and procedural issues

Court's payments to witnesses acting as an inducement?

Defense arguments relating to the amounts paid to witnesses by the Special Court dominated the morning's proceedings on Monday. In what has become a running theme in the defense's cross-

enquiry, Witness TF1-263 was questioned extensively on the amounts given to him by the Witness and Victims Support Unit (WVS) during the time in which he has given statements to the prosecution. It was revealed that over the course of approximately six and a half months, the witness had received a total of Le 1,456,000 in payments for expenses from the Special Court. The breakdown of these expenses was not revealed.

The prosecution objected to defense counsel's questions, on the grounds that payments made to witnesses at the Special Court are made under court order and pursuant to a practice direction issued by the Trial Chamber I [CHECK]. The defense argued that, in a country where so many people are living below the poverty line, receiving amounts of money which far exceed the average income could, at best, motivate witnesses to testify and at worst, act as an inducement to change the testimony in their witness statements [4]. The defense seemed to be arguing that due consideration should be given to the affect the receipt of large sums of money would have on witness's testimony, but were cautious to construe the argument in terms of the testimony of the witness rather than the actions of the court. The prosecution, on the other hand, counter-argued that any negative inference about a witness's credibility based upon a payment he receives pursuant to a court order is unfair, given the witness has not asked to be paid, nor does he determine the amount he receives. The prosecution appeared to be alleging that the collateral argument being launched by the defense was that payment structure endorsed by the practice direction was flawed.

The Chamber sustained the objection but then allowed the line of cross-enquiry, provided the questions were limited to what expenses and allowances the witness had received and did not infer any *mala fides* intent on behalf of the court or the WVS.

Age of alleged former child combatant cause for greater consternation

The arbitrary nature of the legal definition of a child under the Special Court's Statute precipitated further legal arguments about the age of Witness TF1-263 this week. The prosecution sought successfully under re-examination to ask Witness TF1-263 what year he was born, the Witness answering 1984, hence re-establishing his age as 14 at the time of capture and his status as a child combatant. However, the Chamber subsequently allowed counsel for the first accused to tender a witness statement evidencing the witness's year of birth as 1983.

- 1.) Using what appears to be a common prosecutorial tactic for identifying child combatants, he said he could tell they were his age because they were the same height and stature as he was.
- 2.) SCSL-04-15-T, *Ruling on the Oral Application for the Exclusion of Statements of Witness TF1-141 dated respectively 9 October 2004, 19 and 20 October 2004 and 10 January 2005* (3 February 2005).
- 3.) In relation to the final allegation, the witness had previously stated that Sam Bockarie had been responsible for the killing, but in one of his most recent statements recounted that Bockarie was in France at the time. In that statement, Bockarie is alleged to have ordered Fonti Kanu to be killed via radio communication from France.
- 4.) Counsel for the first accused argued that the payments are likely to motivate witnesses to testify, whereas counsel for the second accused argued that the payments could be construed as tantamount to inducements.



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