



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

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by Michelle Staggs and Sara Kendall, Senior Researchers

Summary Continued examination in chief of Witness TF1-167_Cross-examination by defense counsel _Crime base witnesses

Summary

The examination in chief of insider witness TF1-167 resumed on Monday, followed by over two days of cross-examination by the defense. Testimony centered on the chain of command within the RUF and AFRC as well as on details of the 6 January 1999 attack on Freetown and the Western Area. The witness described command and control relationships, planning meetings among commanders, and orders that were given in violation of the laws of war. The issue of joint criminal enterprise was both implicitly and explicitly addressed throughout the examination in chief and cross examination of the witness.

The prosecution subsequently called three additional witnesses this week, bringing the total number of witnesses heard from thus far in the RUF trial to seventeen. These three “crime base” witnesses testified regarding events that took place following the fall of the junta government in 1998, when rebel troops withdrew to the provinces after ECOMOG forces pushed them out of Freetown. Addressing a number of counts from the indictment, these witnesses described unlawful killings, physical and sexual violence, and forced marriages that transpired in the Kono district in February through April of 1998.

Continued examination in chief of Witness TF1-167

After witness TF-167 did not attend court on Friday for reasons that were not fully clarified by the prosecution, there was some speculation that he would not appear when the court resumed proceedings this week. However, it was apparent from the opening of proceedings on Monday that the witness was both present and willing to testify publicly. The witness requested to have the partition removed so that he could be viewed by the public gallery, and he asked for the voice distortion mechanism to be turned off.

Deliberation regarding witness protection measures

There was some debate in the chamber as to whether the witness’s request should be granted. The prosecution asked the court to consider an ICTY case establishing that an objective assessment of witness risk must be made in cases where a witness requests to have protective measures lifted [1]. According to this precedent, the witness’s subjective position can also be taken into consideration, but the objective assessment should prevail. Defense counsel for the

first accused did not agree with this standard: counsel first noted that the fact that the accused believed his name was in the public domain should be taken into account, and second, that if an objective assessment must be made, it must pertain to a specific individual rather than to the general security situation in Sierra Leone. In this matter, counsel argued, the witness himself may be in the best position to assess his own risk.

The bench called upon the chief of the Witness and Victims Support Unit to make an objective assessment of the witness's risk in closed session [2]. When the court resumed open session, the bench announced that the witness's application to testify openly was granted. The partition and voice distortion device were removed, and Witness TF1-167 became the second witness of the prosecution to testify openly before the public gallery. The witness was subsequently addressed as Mr. George Johnson, a.k.a. "Junior Lion." [3]

1999 Attack on Freetown

The prosecution continued the examination in chief of Mr. Johnson by focusing on the events surrounding the 6 January 1999 attack on the capital. During cross-examination the witness stated that the invasion was conducted primarily by SLA forces in an effort to reinstate Johnny Paul Koroma. According to the witness, over 2000 combatants and possibly as many as 2000 captured civilians entered Freetown on the day of the invasion. The witness first described a planning meeting held in Newton in December of 1998. Operational orders were allegedly given by Saj Moussa of the SLA [4], who delivered the proposed plan of attack: troops would march from Newton to Waterloo to Bengwema training center, cross into the peninsula, and would then enter Freetown by way of Orugu village on the outskirts of the city. Moussa allegedly instructed the troops that there should be no abduction of civilians before reaching Freetown. After the death of Moussa the command passed to Field Commander Alex Brima, who then led the operation in Freetown.

Johnson testified that there was looting along the highway en route to Freetown. A final meeting at Orugu village on 4 January was attended by all senior and mid-level commanders. Brima allegedly ordered that Nigerian soldiers and civilians should be targeted, along with police officers and collaborators with the SLPP government. The witness elaborated that targeted groups would be treated as enemies and killed. The operation began late at night on 5 January, and troops arrived in Freetown early the following morning. The witness stated that RUF combatants had captured Makeni Town in the north at that time and were preparing to come to Freetown.

The witness gave detailed testimony on the military plan for approaching Freetown, including troop movements and the route of the invasion. Police stations were burned during the march on Freetown, and after the troops took control of the State House, an order was given to open Pademba Road Prison. Sam "Mosquito" Bockarie allegedly ordered Brima by radio to turn over all high-ranking politicians and SLA officers who had been incarcerated to Issa Sesay, who was in Makeni at the time of the invasion. While in Freetown, the witness stated that troops met resistance from ECOMOG forces, and he saw a number of casualties: the majority of the casualties were Nigerian soldiers and civilians as well as policemen.

Alleged atrocities during the withdrawal from Freetown

According to the witness, the troops began withdrawing from the center of Freetown on 8 January. The witness's testimony addresses a number of charges from the indictment, including looting and burning, abductions, physical violence and unlawful killings. During the retreat, Papa Bangura (aka "Bomb Blast") allegedly issued orders to burn houses en route to Orugu village. Santigi Borbor Kanu (aka "Five-Five") ordered troops to amputate up to 200 people and send them into the ECOMOG-controlled area of Freetown. Johnson testified that a government minister was killed along with a number of captured ECOMOG soldiers at Ferry Junction.

A bishop, eight nuns, and an unknown number of civilians were abducted during the withdrawal from Ferry Junction. Johnson testified that three of the nuns were subsequently killed outside the Kiskey Mental Hospital. During the withdrawal to Orugu village, Johnson saw a number of corpses surrounding a mosque in eastern Freetown. The witness's commander, Bazy Kamara, allegedly gave instructions to slow down ECOMOG troops: civilians killed by machetes were left on display along the highway as a diversion, and a house was set on fire and civilians were forced into it. When two children tried to escape, Kamara allegedly fired shots and forced them back into the house.

The witness testified that the troops withdrew southeast to Waterloo, where they were met by a number of commanders including Dennis Mingo (aka "Superman"), Morris Kallon, and Issa Sesay. Sesay allegedly chaired a meeting to discuss the possibility of an additional attack on Freetown. After withdrawing further, another meeting was held by Bazy Kamara at the West Side Camp, where attendees discussed the need for more arms and ammunition. Malayan and Guinean soldiers were subsequently attacked for supplies, and two Malayan soldiers were taken hostage. The soldiers were released with the signing of the Lome Peace Accords in July of 1999.

Cross-examination by defense counsel

Defense for the first accused opened his cross-examination by observing that much had been said about troop movements and little about the individual personalities of the commanders. The witness agreed with counsel's assessment that during his time with the West Side Boys he interacted with strong personalities within the chain of command [5]. Defense counsel then focused on alleged conflicts between commanders within the RUF and AFRC/SLA, including power struggles and assassination attempts within the command structure, in order to demonstrate that command and control relationships were more fragmented than the prosecution had shown.

Challenging joint criminal enterprise and command structure

The prosecution's case presumes a joint criminal enterprise, "a common plan, purpose or design" to "gain and exercise political power and control over the territory of Sierra Leone" that was allegedly shared by the RUF and AFRC [6]. According to the indictment, the AFRC and the RUF came together after the coup of May 1997 and "acted jointly thereafter." In his opening statement, lead prosecutor David Crane argued that "there is a key and important linkage and union between the RUF and the AFRC factually that began in the summer of 1997 lasting through the rest of the conflict. The RUF and AFRC in large measure became one and the same." [7]

Defense counsel challenged the existence of a joint criminal enterprise by exploring inconsistencies within the command structure as well as tensions between the RUF and the AFRC. In particular, counsel noted that SLA commander Saj Moussa refused to take orders from RUF commanders, and he also pointed out that RUF commander Sam "Mosquito" Bockarie did not take orders from Johnny Paul Koroma of the AFRC. Indeed, Bockarie was thought to be acting on his own initiative outside the command structure after he left Freetown for the eastern provinces. At the end of his cross examination by counsel for the first accused, the witness claimed that the relationship between Charles Taylor of the NPFL and Johnny Paul Koroma was not cordial.

Defense counsel for Sesay further developed the argument that there was no rigid or clear chain of command within the RUF and AFRC relationship. Specifically, he questioned the witness about SLA member "Savage's" refusal to follow an order from RUF commander Dennis Mingo ("Superman") despite the fact that Mingo was above him in the command structure. The witness testified that "Savage" had a cache of his own weapons that were taken from ECOMOG and was paying little attention to the command structure. Counsel noted an interview statement by the

witness wherein he described how it was known to commanders that “Savage” was mistreating civilians, but there were no efforts to intervene. With the defense counsel’s prompting, the witness testified that “Savage” and Sam “Mosquito” Bockarie could be described as outlaws who were effectively operating without regard for the chain of command.

The witness was prompted to discuss the shift in relations between the RUF and AFRC. He testified that Issa Sesay stopped attending meetings of the Supreme Council for the AFRC government after the Iranian embassy was looted in Freetown, and after that time there were no RUF members on the Supreme Council. After the fall of the junta in February 1998 the witness testified that there was serious fighting between SLAs and the RUF, including a shootout in Kaballa that lasted for several hours. The witness further reported that there was tension between Sesay and Johnny Paul Koroma, and that members of the AFRC coup were not taking orders from Sesay. AFRC commander Brima was beaten and had his possessions taken by Sam “Mosquito” Bockarie of the RUF.

The witness agreed that combatant groups tended to be defined more by the individuals commanding them than by SLA or RUF categorizations. Furthermore, there seemed to be great rifts and power struggles within the groups themselves: the witness stated that RUF commander Dennis Mingo (“Superman”) tried to kill Issa Sesay in Makeni, and commanders Brima and Bazzy Kamara of the AFRC fought to assume Saj Moussa’s position after Moussa’s death despite their disparity in rank. This testimony appeared favorable to the defense’s attempts to demonstrate that the chain of command was not rigidly followed within the combat groups, and the “joint criminal enterprise” between the RUF and the SLA/AFRC appeared less likely in light of the volatile relationships between high level commanders on both sides. However, the witness testified that the subsequent attack on Bo following the withdrawal from Freetown was a joint operation between the SLA/AFRC and the RUF, which would tend to support the prosecution’s argument that a common plan or purpose existed between the two groups.

Questions of witness’s involvement in the conflict

The witness stated to counsel for the second accused that he was originally afraid to meet with the prosecution out of fear that he could be indicted, but he did not believe he qualified among those who bear the greatest responsibility for the atrocities of the conflict.

Cross-examination by counsel for the second accused focused in part on the witness’s location within the chain of command and his role in the conflict. The witness stated that he was a task force commander under Bazzy Kamara during the 1999 invasion of Freetown. He claimed that he killed ECOMOG soldiers but he did not consciously kill civilians during the invasion. Troops under his control were sent to Manaarma in 1999 and a number of civilians were killed, but the witness claimed that he was neither one of the decision makers nor one of the individuals carrying out the killings. Troops under his command also took part in killings in “Major Eddie” town, but the witness claimed he did not take any action against them because he would have been killed by the Field Commander.

The witness was a prominent member of the West Side Boys, a group largely composed of former SLA soldiers who broke from the AFRC/RUF in October of 1998. The witness stated that he was the commander of a West Side Boys attack on Malayan peacekeepers in Port Loko in March of 1999. He informed counsel for the third accused that he went to Liberia in the West Side delegation after the hostage-taking in order to determine if Johnny Paul Koroma was still alive. He left the West Side Boys when Koroma returned to Freetown in late 200, and he became Koroma’s security guard thereafter.

It was evident both from the witness’s own comments and the various positions he had held that he had been involved to some extent in the atrocities. He would not qualify for indictment under

the existing interpretation of the Court's mandate; however, as with the previous insider witness, the very presence of a witness who may have been involved in acts that contributed to the conflict in Sierra Leone raises questions about his participation in war crimes and crimes against humanity. Although this issue was addressed more explicitly in the cross-examinations of General Tarnue, George Johnson was undoubtedly an active participant in the conflict.

Crime base witnesses

Following Johnson's insider testimony regarding command structure, planning meetings, and the relationship between the RUF and the SLA/AFRC, the prosecution moved on to three further witnesses this week who were allegedly victims of the conflict. As "crime base" witnesses, all three testified to the atrocities committed in the Kono district in 1998. Testimony from the first witness focused on alleged incidents of forced marriage and forced labor, and the final two witnesses gave accounts of acts of physical violence, unlawful killings, and forced labor.

Testimony of Witness TF1-016

The fifteenth witness of the prosecution was designated a "category A" witness, and she testified from behind a partition with a voice distortion mechanism in place. This testimony addressed forced labor and sexual violence counts from the indictment; in particular, the rapes, abductions, and forced marriages that took place in the Kono district in February of 1998. According to the indictment, "[a]n unknown number of women and girls were abducted from various locations within the District and used as sex slaves and/or forced into 'marriages.' The 'wives' were forced to perform a number of conjugal duties under coercion by their 'husbands'" [8]. The prosecution of charges of sexual violence is one area in which there appears to be little overlap between international and Sierra Leonean law: marital rape is not recognized under either customary or statutory law in Sierra Leone [9].

The witness testified in translation from Kissi that she was born in Kono district, and she stated that she was married with four children. She allegedly fled to Guinea when the RUF rebels came, but she eventually returned to the Kono district when food became scarce. Upon her return she was captured by RUF rebels in Tombodu along with twelve other individuals, including her eleven year old daughter and her husband. Her husband eventually escaped, but she was taken with her daughter to a house in town. The captured civilians were separated by gender, and the men were told to remove their shirts. The witness testified that a member of the rebel group used a razor blade to inscribe "RUF" into the backs and arms of the male captives [10]. Under cross-examination the witness testified that Sam Bockarie was in command of the rebels in Tombodu.

The women were taken to Kissi town and handed over to a man known as "Alpha," who allegedly distributed the women among the rebels. The witness stated that she was turned over to a man who worked for "Alpha" against her will. Her daughter was allegedly held captive by "Alpha" and forced to engage in sexual acts with him, and she was given to another unknown man to be married. The witness was forced to cook, wash clothes, clean, and have regular non-consensual sexual relations with the man she was given to. According to the witness, the captives were held for over a year until the rebels were told to release them under a cease-fire agreement.

Testimony of Witness TF1-119

Witness TF1-119 testified that he grew up in Kono district and was in Koidu and Tombodu during a rebel attack. He claimed that the AFRC and RUF rebels came to the Kono district after they were driven out of Freetown. He was captured twice during this time period and subjected to a number of beatings; his hand was amputated by rebel forces in April of 1998.

Civilians fled into the bush upon the arrival of the rebels, and the witness left along with his family. The rebels were dressed in a mixture of civilian and military clothing, and they stole a number of items from the witness and beat him with sticks and guns. The rebels were led by a man named Moussa, who answered to a superior named Allaji. When he was captured a second time, the captives were taken to Allaji and flogged with wire. The witness was allegedly present during the rape of one of the captive women by Allaji, and he stated further that six of the captives with him were killed. The witness testified that the rebels determined who would be killed by throwing stones as a form of fortune-telling: those who were struck by the stones were thought to have a long life, and those who were missed were killed.

The witness began sobbing audibly as he described how the six men were killed and his own hand was amputated with a cutlass. Proceedings were temporarily suspended while the psychologist from the Witness and Victims Support Unit consulted with him. When proceedings resumed, Presiding Judge Itoe commanded the witness to “hold yourself like a man: tell your story and it will soon be over.” The witness appeared to recover, and he ended his testimony with a statement to the chamber: “My own plea is that we talk to our leaders, both Muslim and Christian, so that what happened in this country may never be repeated again.” This practice of addressing the court directly regarding its aims and purposes has been fairly common among witnesses in both the CDF and the RUF trial.

Testimony of Witness TF-078

The seventeenth witness of the prosecution and the final witness called this week began his examination in chief on Friday. He testified that he was seventy years old, and he had been living in Koidu town in the Kono district during the time of the rebel withdrawal from Freetown following the fall of the junta on 14 February 1998. The witness left Koidu after the township came under attack in late February, and he fled into the forest with a number of other civilians in early March. On 17 March the witness testified that he was confronted and beaten by three armed men dressed in a mixture of civilian and military clothing, and his belongings were taken from him. The witness stated that he could not determine whether the men were from the AFRC or the RUF, a point which was emphasized repeatedly by the prosecution in support of the joint criminal enterprise argument.

The witness claimed that another armed group attacked the following day, and once again he was unable to determine their affiliation. The men informed the witness and his group that they should report to the rebel commander in Kaidu because they might be mistaken for Kamajors if they remained in the bush. Many of the civilians in the group were too weak to travel as a result of the beatings, and the witness left six of his children behind when he went to Kaidu with his wife and one child. In Kaidu he asked the commander to return to the bush to retrieve his children, and the commander sent him to see Morris Kallon in Koidu town, one of the RUF accused, because Kallon allegedly exercised authority in the area. Once he was reunited with his children, the witness returned to Kaidu because it was safer for civilians to stay with the rebels in order to prevent them from being mistaken for Kamajor enemy combatants.

The witness ended his testimony for the week with a description of an execution he had witnessed in Kaidu town. A Nigerian woman who had been a long-time resident of Sierra Leone was shot twice by a bodyguard of the Kaidu commander, allegedly in retaliation for attacks by Nigerian ECOMOG troops. Court proceedings ended for the week with a defense application to hear further testimony from the witness in closed session.

1.) *Prosecutor v. Tadic*, 10 August 1995. The prosecution pointed out that view is supplemented in two subsequent decisions by the ICTR.

- 2.) The Witness and Victims Support Unit was established by the Court Registry to provide protective measures, security arrangements, and psychological support for witnesses. This unit is independent from both the prosecution and defense, and it is distinct from the Witness Management Unit within the Office of the Prosecutor.
- 3.) The witness's name had been disclosed in the 15 October edition of the Freetown-based newspaper *The Exclusive*. The prosecution filed a motion to cite the newspaper for contempt, and the bench ruled on 20 October that a semblance of contempt had been found; however, the Chamber stated that it was cognisant that witness had applied to testify publicly shortly thereafter. No action was taken against *The Exclusive*.
- 4.) As noted in the previous report, the witness appeared to use SLA and AFRC interchangeably. The AFRC developed out of a military coup staged by members of the Sierra Leonean Army (SLA).
- 5.) The West Side Boys were a splinter group of the AFRC formed after the signing of the Lome Agreement in July of 1999. They were primarily composed of ex-convicts who had been released during the RUF raid on the Pademba Road Prison in January of 1999.
- 6.) 13 May 2004 Consolidated Indictment, paragraph 36.
- 7.) 5 July 2004 Transcript of Proceedings, page 25, lines 26-28.
- 8.) 13 May 2004 Amended Consolidated Indictment, paragraph 55.
- 9.) According to Human Rights Watch, it is widely believed that only the rape of a virgin can be construed as rape, and marital rape does not exist in Sierra Leone: "As the right to have intercourse between a husband and wife is recognized, a husband cannot be guilty of raping his wife unless he has been legally separated from his wife." [Human Rights Watch Report Vol. 15, no. 1(A), January 2003, "*We'll kill you if you cry': Sexual Violence in the Sierra Leone Conflict*", available on line at <http://hrw.org/reports/2003/sierraleone/>.]
- 10.) Under the charge of physical violence, Count 62 of the Amended Consolidated Indictment states that "the mutilations included cutting off limbs and carving 'RUF' and 'AFRC' on the bodies of civilians."



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