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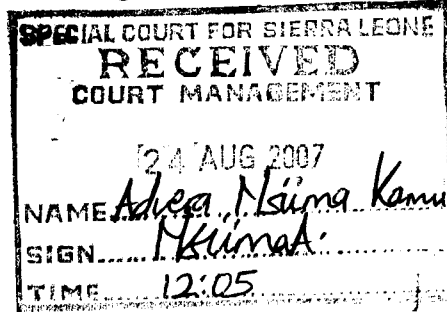
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SPECIAL COURT FOR SIERRA LEONE  
OFFICE OF THE PROSECUTOR  
Freetown – Sierra Leone

Before: Hon. Justice Benjamin Mutanga Itoe, Presiding  
Hon. Justice Bankole Thompson  
Hon. Justice Pierre Boutet

Registrar: Mr. Herman von Hebel

Date filed: 24 August 2007



THE PROSECUTOR

Against

Moinina Fofana  
Allieu Kondewa

Case No. SCSL-04-14-T

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PUBLIC

PROSECUTION SENTENCING SUBMISSION PURSUANT TO RULE 100(A) OF THE RULES OF  
PROCEDURE AND EVIDENCE

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## I. INTRODUCTION

1. On 2 August 2007, this Trial Chamber rendered its Judgement in this case (the “**Trial Chamber’s Judgement**”).<sup>1</sup> Moinina Fofana (“**Fofana**”) was convicted on four of the eight counts in the Indictment and Allieu Kondewa (“**Kondewa**”) was convicted on five counts.<sup>2</sup>
2. Pursuant to Rule 100(A) of the Rules of Procedure and Evidence (“**Rules**”), the Prosecution now files this Sentencing Brief, setting out relevant information that may assist the Trial Chamber in determining the appropriate sentence. In addition to the submissions below, the Appendix and all Annexes to these Submissions contain information intended to assist the Trial Chamber in determining the appropriate sentence.

## II. THE SPECIFIC CRIMINAL CONDUCT OF THE ACCUSED

3. The specific crimes of which each Accused was convicted, and the basis of each Accused’s criminal responsibility in respect of each of those crimes, are set out in the Appendix to this Submission.

## III. GENERAL SUBMISSIONS OF LAW: MATTERS WHICH THE TRIAL CHAMBER SHOULD CONSIDER IN SENTENCING

### (A) INTRODUCTION

4. The Prosecution submits that in determining the appropriate sentence, the Trial Chamber must take into consideration:
  - 1) the objectives and purposes of sentencing (as to which, see paragraphs 5-20 below); and
  - 2) the factors specified in Article 19(1) and (2) of the Statute, and Rule 101(B) of the Rules, and any other relevant sentencing factors (as to which, see paragraphs 21-77 below).

### (B) SENTENCING PURPOSES AND OBJECTIVES

5. As the ICTY Trial Chamber observed in the *Kunarac* case, “The Trial and Appeals Chambers of the International Tribunal generally consider what is variously and often

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<sup>1</sup> *Prosecutor v. Moinina Fofana and Allieu Kondewa*, SCSL-04-14-T-785, “Judgement”, Trial Chamber, 2 August 2007 (the “**Trial Chamber’s Judgement**”).

<sup>2</sup> Trial Chamber’s Judgement, Part VII “Disposition” (“**Disposition**”), pp. 290-292.



interchangeably referred to, for example, as sentencing ‘objectives’, ‘purposes’, ‘principles’, ‘functions’ or ‘policy’ in the assessment of the term of actual imprisonment for convicted persons”<sup>3</sup>. As discussed below, these sentencing purposes or objectives include in particular deterrence and retribution.

6. The ICTY Trial Chamber in the *Kunarac* case went on to observe (apparently somewhat critically) that such purposes or objectives “are considered in addition to the gravity of the offence and mitigating and aggravating circumstances” and that “[W]hat appear to be justifications for imprisoning convicted persons, or theories of punishment, actually are treated as or resemble sentencing factors, in the sense that these considerations are consistently said to affect, usually in an unspecified manner, the length of imprisonment”.<sup>4</sup>
7. The Prosecution submits that considerations of the purposes of sentencing, such as deterrence and retribution, are not to be treated as sentencing factors as such, in the sense that they are required to be weighed with other factors in each individual case to determine the actual sentence to be imposed. Contrary to what is suggested in the *Kunarac* case, the Prosecution submits that Chambers of the ICTY and ICTR have not in fact treated such considerations as sentencing factors in this way.
8. The Prosecution submits that considerations of the purposes of sentencing, such as deterrence and retribution, are relevant in determining in a general way the levels of sentences that are appropriate for particular types of crimes. In national legal systems, the law normally prescribes maximum (and sometimes minimum) sentences for each particular crime, and the prescribed sentences will be different for various types of crimes. Thus, the crime of murder will in a national system typically carry a higher maximum penalty than a less serious crime, such as theft. The levels of penalty imposed under national law for a particular crime will take into account the purposes of sentencing, such as deterrence and retribution. In any national legal system, a maximum penalty of, say, one year’s imprisonment for a crime such as murder would obviously be considered manifestly inadequate, on the ground that it would fail to give effect to the purposes of sentencing such as deterrence and retribution.

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<sup>3</sup> *Prosecutor v. Kunarac*, IT-96-23, “Trial Judgement”, Trial Chamber, 22 February 2001 (“*Kunarac Trial Judgement*”), para. 836.

<sup>4</sup> *Ibid.*

9. Under the Statute and Rules of the Special Court and of other international criminal courts, no minimum or maximum terms of imprisonment are prescribed for any of the crimes within its jurisdiction. It is therefore submitted that in determining the general range of sentencing that is appropriate for a particular type of crime, a Trial Chamber must of necessity have regard to considerations of the purposes of sentencing, such as deterrence and retribution. Sentencing factors such as the gravity of the offence, and aggravating and mitigating factors, will then be weighed by the Trial Chamber to determine the appropriate sentence within that general range in a specific case.
10. The case law of the ICTY and ICTR has consistently acknowledged that two of the main purposes of sentencing are deterrence and retribution.<sup>5</sup>
11. In relation to **deterrence**, the Appeals Chamber of the ICTY has observed that “[O]ne of the purposes of the Tribunal, in ‘bringing to justice’ individuals responsible for serious violations of international humanitarian law, is to deter future violations”.<sup>6</sup> As one Trial Chamber of the ICTY has said:

“As to deterrence, the penalties imposed by the Tribunal must, in general, have sufficient deterrent value to ensure that those who would consider committing similar crimes will be dissuaded from doing so. One of the main purposes of a sentence imposed by an international criminal tribunal is to “influence the legal awareness of the accused, the surviving victims, their relatives, the witnesses and the general public in order to reassure them that the legal system is implemented and enforced. Additionally, the process of sentencing is intended to convey the message that globally accepted laws and rules have to be obeyed by everybody.”<sup>7</sup>

12. As another ICTY Trial Chamber has observed:

<sup>5</sup> *Prosecutor v. Delalić et al.*, IT-96-21, “Appeals Judgement”, Appeals Chamber, 20 February 2001 (“**Čelebići Appeal Judgement**”), para. 806; *Prosecutor v. Nzabirinda*, ICTR-01-77-I, “Sentencing Judgement”, Trial Chamber, 23 February 2007, para. 49; *Prosecutor v. Todorović*, IT-95-9/1, “Sentencing Judgement”, Trial Chamber, 31 July 2001 (“**Todorović Sentencing Judgement**”), para. 28; *Prosecutor v. Nikolić-Dragan*, IT-94-2, “Sentencing Judgement”, Trial Chamber, 18 December 2003 (“**Nikolić-Dragan Sentencing Judgement**”), para. 132; *Prosecutor v. Plavšić*, IT-00-39&40/1, “Sentencing Judgement”, Trial Chamber, 27 February 2003 (“**Plavšić Sentencing Judgement**”), para. 22; *Kunarac* Trial Judgement, para. 838.

<sup>6</sup> *Čelebići* Appeal Judgement, para. 801.

<sup>7</sup> *Prosecutor v. Brđanin*, IT-99-36-T, “Trial Judgement”, Trial Chamber, 1 September 2004 (“**Brđanin Trial Judgement**”), para. 1091. See also *Prosecutor v. Jean Kambanda*, ICTR-97-23-S, “Judgement and Sentence”, Trial Chamber, 4 September 1998, (“**Kambanda Trial Judgement**”), para. 28 (“it is clear that the penalties imposed on accused persons found guilty by the Tribunal must be directed, on the one hand, at retribution of the said accused, who must see their crimes punished, and over and above that, on the other hand, at deterrence, namely *dissuading for good those who will attempt in future to perpetrate such atrocities* by showing them that the international community was not ready to tolerate the serious violations of international law and human rights” (emphasis added)); *Prosecutor v. Rutaganda*, ICTR-96-3, “Trial Judgement”, Trial Chamber, 6 December 1999 (“**Rutaganda Trial Judgement**”), para. 456; *Plavšić* Sentencing Judgement, para. 24.

“[t]he greater the harm, the greater its weight in the balance of conflicting interests against the offender by way of punishment as a general deterrent. It must be made clear, both to the offender and others with similar impulses, that if they yield to them they will meet with severe punishment: “in all civilized countries, in all ages, that has been the main purpose of punishment and continues to be so”.<sup>8</sup>

13. The Appeals Chamber of the ICTY has consistently accepted the general importance of deterrence as a consideration in sentencing for international crimes, subject to a proviso that this factor must not be accorded *undue* prominence in the overall assessment of the sentences to be imposed on convicted persons.<sup>9</sup> It is not clear from the current case law what would amount to giving “undue” prominence to the importance of deterrence since the Prosecution is unaware of any case in which a sentence has been overturned by an Appeals Chamber on the ground that undue prominence was given to this factor. However, some explanation was given by a Trial Chamber of the ICTY which stated that:

“The deterrent effect aimed at through punishment consists in discouraging the commission of similar crimes. The main effect sought is to turn the perpetrator away from future wrongdoing (special deterrence) but it is assumed that punishment will also have the effect of discouraging others from committing the same kind of crime that is, for the Tribunal, those described in the Statute (general deterrence).

In the instant case, the Trial Chamber considers the chance that the convicted person will commit the same kind of crime in the future to be small, which considerably reduces the relevance of special deterrence. With regard to general deterrence, imposing a punishment serves to strengthen the legal order, in which the type of conduct involved is defined as criminal, and to reassure society of the effectiveness of its penal provisions. Nonetheless, it would be unfair, and would ultimately weaken the respect for the legal order as a whole, to increase the punishment imposed on a person merely for the purpose of deterring others.”<sup>10</sup>

14. This passage suggests (and the Prosecution accepts) that in the context of crimes tried by international courts such as the Special Court for Sierra Leone, the emphasis must

<sup>8</sup> *Prosecutor v. Deronjić*, IT-02-61, “Sentencing Judgement”, Trial Chamber, 30 March 2004 (“**Deronjić Sentencing Judgement**”), para. 148, quoting *R v. Bloomfield* 1999 NTCCA 137 para. 19 (Australia: Northern Territory Court of Appeal).

<sup>9</sup> *Čelebići Appeal Judgement*, paras 799-803; *Prosecutor v. Aleksovski*, IT-95-14/1-A, “Judgement”, Appeals Chamber, 24 March 2000 (“**Aleksovski Appeal Judgement**”), para. 185; *Prosecutor v. Tadić*, IT-94-1-A and IT-94-1-Abis, “Judgement in Sentencing Appeals”, Appeals Chamber, 26 January 2000 (“**Tadić Sentencing Appeal Judgement**”), para. 48.

<sup>10</sup> *Prosecutor v. Jokić*, IT-01-42/1-S, “Sentencing Judgement”, Trial Chamber, 18 March 2004 (“**Jokić Sentencing Judgement**”), paras 33-34.

normally be on general deterrence rather than special deterrence. This passage also suggests (and the Prosecution again accepts) that it would not be appropriate to impose a sentence above and beyond what would otherwise be appropriate merely for the purpose of deterring others from committing the same crimes in the future. However, this passage does not detract from the general importance of deterrence in determining what *is* an appropriate general range of sentencing for a particular type of crime.<sup>11</sup> Put simply, the Prosecution accepts that in each individual case, the punishment must be made to fit the crimes of the individual convicted person,<sup>12</sup> who cannot be punished beyond his or her own actual criminal culpability. However, considerations of the principle of deterrence are relevant in determining, in a general sense, what level of punishment *will* fit a particular crime, in the context of serious violations of international humanitarian law.

15. In considering the deterrent purpose of sentencing, it is submitted that the Trial Chamber should take into account that the cases which come before international criminal courts differ in many respects from those which ordinarily come before national courts, primarily because the crimes being prosecuted, are “serious violations of international humanitarian law”.<sup>13</sup> The reason why war crimes, crimes against humanity and certain other crimes are crimes under international law, rather than merely crimes under national law, is that these crimes “threaten the peace, security and well-being of the world”,<sup>14</sup> and that they are “the most serious crimes of concern to the

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<sup>11</sup> The Prosecution notes that some Chambers have questioned the relevance of deterrence as a consideration in sentencing. For instance, in the *Kunarac* case, the Trial Chamber said: “Whether the Appeals Chamber considers special or general deterrence or both to be a main general sentencing factor is therefore not entirely clear. Given that uncertainty, this Trial Chamber considers it appropriate to express its view that special deterrence, as a general sentencing factor, is generally of little significance before this jurisdiction. The main reason is that the likelihood of persons convicted here ever again being faced with an opportunity to commit war crimes, crimes against humanity, genocide or grave breaches is so remote as to render its consideration in this way unreasonable and unfair. As to general deterrence, in line with the view of the Appeals Chamber, it is not to be accorded undue prominence in the assessment of an overall sentence to be imposed. The reason is that a sentence should in principle be imposed on an offender for *his* culpable conduct - it may be unfair to impose a sentence on an offender greater than is appropriate to that conduct solely in the *belief* that it will deter others.” (*Kunarac* Trial Judgement, para. 840.) The Prosecution submits that this is not inconsistent with the submissions made above. Considerations of deterrence, it is submitted, are relevant to determining the general level of the sentencing range for a particular crime, rather than to determining the specific sentence to be imposed on a particular accused.

<sup>12</sup> *Todorović* Sentencing Judgement, para. 29.

<sup>13</sup> *Čelebići* Appeal Judgement, para. 806.

<sup>14</sup> See Statute of the International Criminal Court (“**ICC Statute**”), Preamble para. 3.

international community.”<sup>15</sup> The punishment of perpetrators of such crimes is intended “to contribute to the prevention of such crimes”,<sup>16</sup> and sentences imposed for such crimes must be consistent with this aim of deterrence. If, for instance, the penalties imposed for murder or rape as a war crime were less than those typically imposed in national legal systems for murder or rape under national law, this would send the signal to the international community that the killing or rape of a person as a war crime is less serious and morally less reprehensible than an ordinary murder or rape under national law. The true position is the contrary, and this should be reflected in sentencing. The penalties imposed for war crimes must be commensurate with the seriousness with which they are regarded by the international community, and the need to “dissuade forever” those who might be tempted to commit such atrocities.<sup>17</sup> The ICTR Appeals Chamber has indicated that it is “precisely on account of their extreme gravity, genocide and crimes against humanity must be punished appropriately.”<sup>18</sup>

16. In relation to **retribution** as a purpose of sentencing, it has been said that:

“This is not to be understood as fulfilling a desire for revenge but as duly expressing the outrage of the international community at these crimes. ... Accordingly, a sentence of the International Tribunal should make plain the condemnation of the international community of the behaviour in question and show ‘that the international community was not ready to tolerate serious violations of international humanitarian law and human rights’”.<sup>19</sup>

17. Other purposes of sentencing that have been identified in the jurisprudence of the ad hoc tribunals, in addition to deterrence and retribution, include the protection of

<sup>15</sup> Ibid., preamble paragraph 4.

<sup>16</sup> Ibid., preamble paragraph 5.

<sup>17</sup> *Rutaganda* Trial Judgement, para. 456.

<sup>18</sup> *Prosecutor v. Akayesu*, ICTR-96-4, “Appeal Judgement”, Appeals Chamber, 1 June 2001 (“**Akayesu Appeal Judgement**”), para. 413.

<sup>19</sup> *Aleksovski* Appeal Judgement, para. 185.

society,<sup>20</sup> reprobation and stigmatization of the offender,<sup>21</sup> and reconciliation and the restoration of peace.<sup>22</sup>

18. As to the last of these purposes, reconciliation and the restoration of peace, it is noted that in United Nations Security Council Resolution 1315 (2000) of 14 August 2000, which requested the Secretary-General of the United Nations to negotiate an agreement with the Government of Sierra Leone for the establishment of the Special Court,<sup>23</sup> the Security Council recognized that:

“in the particular circumstances of Sierra Leone, a credible system of justice and accountability for the very serious crimes committed there would end impunity and would contribute to the process of national reconciliation and to the restoration and maintenance of peace”.<sup>24</sup>

The Prosecution submits that the Special Court’s purpose of providing “a credible system of justice and accountability” with a view to contributing “to the process of national reconciliation and to the restoration and maintenance of peace” cannot be achieved if the sentences imposed by the Special Court are not consistent with what the community would accept as a punishment fitting the crimes in question.

19. The Appeals Chamber of the ICTY has noted that unlike domestic jurisdictions, rehabilitation, although a relevant factor, cannot play a *predominant* role in the decision-making process of a Trial Chamber of an international criminal court when imposing sentence.<sup>25</sup> The sentencing aims of national jurisdictions are different from the aims of international criminal tribunals because national criminal justice systems punish such a wide range of offences and offenders.<sup>26</sup>
20. In short, in order to fulfil the mandate of the Special Court, the Trial Chamber must ensure that those who bear the greatest responsibility are appropriately punished.

<sup>20</sup> *Prosecutor v. Kayishema*, ICTR-95-1-T, “Sentencing Order”, Trial Chamber, 21 May 1999 (“*Kayishema Sentencing Order*”), paras 1-2.

<sup>21</sup> *Prosecutor v. Blaškić*, IT-95-14, “Appeals Judgement”, Appeals Chamber, 29 July 2004, (“*Blaškić Appeals Judgement*”), para. 678; *Prosecutor v. Furundžija*, IT-95-17/1-T, “Judgement”, Trial Chamber, 10 December 1998, (“*Furundžija Judgement*”), para. 289; *Prosecutor v. Jelisić*, IT-95-10-T, “Judgement”, Trial Chamber I, 14 December 1999 (“*Jelisić, Judgement*”), paras 117-118.

<sup>22</sup> See, for example, *Prosecutor v. Tadić*, IT-94-1-Tbis-R117, “Sentencing Judgement”, Trial Chamber, 11 November 1999 (“*Tadić Sentencing Judgement*”), paras 7-9 (referring to earlier case law of the ICTY and ICTR).

<sup>23</sup> United Nations Security Council Resolution 1315 (2000), operative paragraph 1.

<sup>24</sup> *Ibid.*, preambular paragraph 7.

<sup>25</sup> *Čelebići Appeal Judgement*, para. 806; *Prosecutor v. Deronjić*, IT-02-61-A, “Judgement on Sentencing Appeal”, Appeals Chamber (“*Deronjić Appeal Judgement*”), 20 July 2005, paras 136-137; *Kunarac Trial Judgement*, para. 844.

<sup>26</sup> *Prosecutor v. Erdemović*, IT-96-22, “Judgement”, Trial Chamber, 29 November 1996, para. 62.

## (C) SENTENCING FACTORS

## (a) GENERAL

21. Article 19(1) and (2) of the Statute, and Rule 101(B) of the Rules, set out a non-exhaustive list of factors which the Trial Chamber, “shall, as appropriate, have recourse to” in imposing sentence. These factors are:
- 1) the practice regarding prison sentences in the ICTR;<sup>27</sup>
  - 2) the practice regarding prison sentences in the national courts of Sierra Leone;<sup>28</sup>
  - 3) the gravity of the offences;<sup>29</sup>
  - 4) the individual circumstances of the convicted person;<sup>30</sup>
  - 5) any aggravating circumstances;<sup>31</sup>
  - 6) any mitigating circumstances including the Accused’s substantial cooperation with the Prosecutor;<sup>32</sup> and
  - 7) the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served, as referred to in Article 9(3) of the Statute.<sup>33</sup>
22. These factors are not exhaustive, and it is within the discretion of the Trial Chamber to consider all relevant matters when determining the sentence to be imposed.<sup>34</sup> The general principle is that “[I]n sentencing a Trial Chamber is required to take into account and weigh the totality of an accused’s culpability”.<sup>35</sup> The sentence imposed in each case must be individualized, taking into account all of the particular circumstances of each particular convicted person.<sup>36</sup> It is settled case law before both the ICTR and

<sup>27</sup> Statute of the Special Court for Sierra Leone, (“**Statute**”), Article 19(1).

<sup>28</sup> Ibid.

<sup>29</sup> Statute, Article 19(2).

<sup>30</sup> Ibid.

<sup>31</sup> Rule 101(B)(i).

<sup>32</sup> Rule 101(B)(ii).

<sup>33</sup> Rule 101(B)(iii).

<sup>34</sup> *Kambanda* Trial Judgement, paras 30-31; *Prosecutor v. Serushago*, ICTR-98-39-S, “Sentence”, Trial Chamber, 5 February 1999 (“**Serushago Sentence**”), paras 21-23; *Rutaganda*, Trial Judgement, paras 457-459.

<sup>35</sup> *Prosecutor v. Kupreškić et al.*, IT-95-16-A, “Appeal Judgement”, Appeals Chamber, 23 October 2001 (“**Kupreškić Appeal Judgement**”), para. 451.

<sup>36</sup> Ibid., para. 445; *Furundžija* Appeal Judgement, paras 237, 249; *Čelebići* Appeals Judgement, paras 715-721.

the ICTY that the underlying principle is that a Trial Chamber must tailor the penalty to fit the individual circumstances of the accused and the gravity of the crime.<sup>37</sup>

**(b) PRACTICE REGARDING PRISON SENTENCES IN THE ICTR**

23. Article 19(1) of the Statute directs the Trial Chamber to “as appropriate, have recourse to” the practice regarding prison sentences in the ICTR.
24. Despite this express direction in the Statute, the Prosecution submits that comparisons with sentences imposed by the ICTR are of limited value. First, most indictments in cases before the ICTR charge the accused with genocide, which is not a crime within the jurisdiction of the Special Court. In many cases before the ICTR, the penalty imposed for genocide has been life imprisonment,<sup>38</sup> which is not a sentence that the Special Court has the power to impose.<sup>39</sup> Furthermore, comparisons with sentences imposed in other cases (whether cases before the same or a different international criminal tribunal) are of their nature of limited assistance. As has been observed by the Appeals Chamber of the ICTY:

“As a general principle comparison with sentences imposed in other cases is often of limited assistance. While it is to be expected that two accused convicted of similar crimes in similar circumstances should not in practice receive very different sentences, often the differences are more significant than the similarities, and the mitigating and aggravating factors dictate different results.”<sup>40</sup>

25. Furthermore, Trial Chambers of the ICTR commonly impose a single, global sentence on Accused convicted of multiple crimes, making it difficult or impossible to discern what sentence would have been considered appropriate for any one of those crimes

<sup>37</sup> *Prosecutor v. Kamuhanda*, ICTR-95-54A-T, “Appeal Judgement”, Appeals Chamber, 19 September 2005 (“**Kamuhanda Appeal Judgement**”), para. 351.

<sup>38</sup> *Prosecutor v. Akayesu*, ICTR-96-4-T, “Judgement”, Trial Chamber, 2 September 1998 (“**Akayesu Trial Judgement**”); *Prosecutor v. Gacumbitsi*, ICTR-2001-64-A, “Appeals Judgement”, Appeals Chamber, 7 July 2006 (“**Gacumbitsi Appeal Judgement**”); *Prosecutor v. Kajelijeli*, ICTR-98-44A-T, “Trial Judgement”, Trial Chamber, 1 December 2003, (“**Kajelijeli Judgement**”) *Kambanda* Trial Judgement; *Prosecutor v. Kamuhanda*, ICTR-95-54A-T, “Trial Judgement”, Trial Chamber, 22 January 2004, (“**Kamuhanda Judgement**”); *Kayishema* Sentencing Order; *Prosecutor v. Musema*, ICTR-9-13-A, “Judgement and Sentence”, Trial Chamber, 27 January 2000 (“**Musema Judgement and Sentence**”); *Prosecutor v. Niyitegeka*, ICTR-96-14-T, “Judgement and Sentence”, Trial Chamber, 16 May 2003 (“**Niyitegeka Judgement**”); *Rutaganda* Trial Judgement.

<sup>39</sup> See paragraphs 179-180 below.

<sup>40</sup> *Čelebići* Appeals Judgement, paras 715-721. See also *Kamuhanda* Appeals Judgement, para. 361.



- considered in isolation.<sup>41</sup> A sentence imposed on an Accused in a case before the ICTR would therefore provide a meaningful comparison to an Accused in the present case only where the convicted person had been convicted of exactly the same combination of crimes in both cases, and where the circumstances of the crimes and the personal circumstances of the convicted person were similar in both cases.
26. Nevertheless, the Prosecution makes the following observations in relation to the practice regarding prison sentences in the ICTR.
  27. Although Trial Chambers of the ICTR previously indicated that genocide is “the crime of all crimes” and that offences against common Article 3 and Additional Protocol II are lesser crimes,<sup>42</sup> the Appeals Chamber of the ICTR has now held that there is no hierarchy of crimes under the ICTR Statute, and that all of the crimes within its jurisdiction are “serious violations of international humanitarian law”, capable of attracting the same sentence.<sup>43</sup> It is noted that the ICTY Appeals Chamber has also held that “there is no hierarchy of the crimes within the jurisdiction of the Tribunal and ... the sentence of life imprisonment can be imposed ... for any of the crimes under the Tribunal’s Statute.”<sup>44</sup>
  28. In a number of cases, the ICTR has imposed separate sentences in respect of each of the several crimes of which an Accused was convicted.
  29. In the *Akayesu* case, the accused was sentenced to a term of life imprisonment for convictions of genocide and extermination, to three terms of 15 years for three counts of murder, 10 years for torture, 15 years for rape and 10 years for other inhumane acts.<sup>45</sup> The Appeals Chamber found no errors in the Trial Chamber’s analysis.<sup>46</sup> It is noted that these sentences were ordered to be served concurrently, leading to a single sentence of life imprisonment. As has been submitted above, where separate sentences

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<sup>41</sup> For instance, in the *Musema* case, Musema was convicted of one count of each genocide, extermination as a crime against humanity and rape as a crime against humanity and was sentenced to a single sentence of life imprisonment: *Musema* Judgement and Sentence.

<sup>42</sup> *Kambanda* Trial Judgement, para. 14; *Akayesu* Trial Judgement, paras 6-10; *Serushago* Sentence, para. 15; *Kayishema* Sentencing Order, para. 9.

<sup>43</sup> *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-A, “Judgement (Reasons)”, Appeals Chamber, 1 June 2001 (“*Kayishema and Ruzindana* Judgement (Reasons)”), para. 367.

<sup>44</sup> *Prosecutor v. Stakić*, IT-7-24-A, “Appeal Judgement”, Appeals Chamber, 22 March 2006 (“*Stakić* Appeal Judgement”), para. 375; *Tadić* Sentencing Appeal Judgement, para. 69.

<sup>45</sup> *Prosecutor v. Akayesu*, ICTR-96-4-T, “Sentence”, Trial Chamber, 2 October 1998, p. 8.

<sup>46</sup> *Akayesu* Appeal Judgement, para. 417.

are imposed for individual crimes, the aggregate sentence must be consistent with the overall culpability of the accused. For this reason, it is submitted that it cannot be assumed that the sentences for the crimes other than genocide (for which a life sentence was imposed) would necessarily have been ordered to be served concurrently if they were not to be served concurrently with the life sentence for genocide.

30. In the *Imanishimwe* case, the accused, in addition to being sentenced to two sentences of 15 years imprisonment for genocide and extermination, was sentenced to 10 years imprisonment for murder as a crime against humanity, 3 years for imprisonment as a crime against humanity, 10 years for torture as a crime against humanity, and 12 years for cruel treatment as a violation of Common Article 3.<sup>47</sup> These sentences were ordered to be served concurrently, but consecutively with the two 15 year sentences for genocide and extermination, resulting in a total sentence of 27 years imprisonment. Again, for the reasons given above, it cannot be assumed that the sentences for the crimes other than extermination and genocide would necessarily have been ordered to be served concurrently if they had not been ordered to be served consecutively with the sentences for genocide and extermination.<sup>48</sup>
31. The Prosecution submits that while the Trial Chamber should have regard to these examples from the ICTR, they are too few in number and insufficiently similar in their details to the present case, to be of any significant assistance. Nevertheless, in order to assist the Trial Chamber, Annexes A and B of these Submissions contain tables setting out various sentences imposed by Trial Chambers and Appeals Chambers in cases decided at the ICTR and ICTY respectively.

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<sup>47</sup> *Prosecutor v. Ntagerura et. al*, ICTR-99-46-T, “Judgement and Sentence”, Trial Chamber, 25 February 2004 (“*Ntagerura Judgement and Sentence*”), paras 822-827. The sentence was reduced on appeal because the Appeals Chamber reversed some of the convictions entered by the Trial Chamber. However, the Appeals Chamber did not disturb the Trial Chamber’s analysis of the way it imposed the sentence for the convictions as they stood at the original sentencing stage.

<sup>48</sup> See also: *Prosecutor v. Semanza*, ICTR-97-20-T, “Judgement and Sentence”, Trial Chamber, 15 May 2003 (“*Semanza Trial Judgement*”), paras 586-288. The accused was sentenced to significant terms of imprisonment for numerous counts of crimes against humanity: 7 years for rape, 10 years for torture, and two sentences of 10 years and 8 years for two counts of murder.<sup>48</sup> These sentences were ordered to be served concurrently, but consecutively with two 15 year sentences for genocide and extermination, resulting in a total sentence of 25 years imprisonment. On appeal, the conviction for genocide was increased to 25 years, making the total overall sentence 35 years.

(c) PRACTICE REGARDING PRISON SENTENCES IN THE NATIONAL COURTS OF SIERRA LEONE

32. Article 19(1) of the Statute requires the Trial Chamber to “as appropriate, have recourse to” the practice regarding prison sentences in Sierra Leonean domestic courts. The ICTY and ICTR have similar provisions. In *Čelebici*, the Appeals Chamber held that the Trial Chamber shall “have recourse to” and should “take into account” the general practices regarding prison sentences in the former Yugoslavia, but that the Trial Chamber is not obliged to “conform to that practice.”<sup>49</sup> Similarly, the ICTR Trial Chambers have adopted the approach that although they are required to consider the Rwandan national law and practice, they are not bound by it.<sup>50</sup> The Trial Chamber will:

“lean more on its unfettered discretion each time that it has to pass sentence on persons found guilty of crimes falling within its jurisdiction, taking into account the circumstances of the case and the standing of the accused persons”<sup>51</sup>

33. The crimes for which the Accused in this case have been convicted, war crimes, are not covered under Sierra Leonean law, therefore, there is no specific guidance from the courts of Sierra Leone on the sentencing practice for these crimes. However, a general overview of the practice regarding prison sentences in Sierra Leone may be of some relevance.

34. The criminal law system of Sierra Leone is largely based on the English common law. The goals and objectives of criminal punishment in Sierra Leone refer back to the common law practice of sentencing under the English common law where judges act on the assumption that punishment must be proportionate to guilt. The applicable standard in determining what punishment is deserved in a particular case is the degree of revulsion felt by law abiding members of the community. Under the common law the

<sup>49</sup> *Čelebici* Appeal Judgement, para. 813. See also *Blaškić* Appeal Judgement, para. 681; *Prosecutor v. Kunarac et al.* IT-96-23, IT-96-23/1-A, “Judgement”, Appeals Chamber, 12 June 2002, (“**Kunarac Appeal Judgement**”), para. 349; *Kupreškić* Appeal Judgement, para. 418; *Stakić* Appeal Judgement, para. 398.

<sup>50</sup> *Prosecutor v. Semanza*, ICTR-97-20-A, “Appeal Judgement”, Appeals Chamber, 20 May 2005, (“**Semanza Appeal Judgement**”) paras 376-377, 393; *Prosecutor v. Serushago*, ICTR-98-39-A, “Appeals Judgment”, Appeals Chamber, 6 April 2000, (“**Serushago Appeal Judgement**”) para. 30; *Kambanda* Trial Judgement, para. 23; *Rutaganda* Trial Judgement, para. 454; *Serushago* Sentence, para. 18.

<sup>51</sup> *Kambanda* Trial Judgement, para. 25.

key justification for criminal punishment is retribution.<sup>52</sup> (It is noted that retribution as a purpose of sentencing continues to be acknowledged in England, the Lord Chancellor of the United Kingdom having recently stated that society requires retribution if it is to have confidence in the criminal justice system, and that perpetrators of particularly heinous crimes should remain in prison for the rest of their natural lives.<sup>53</sup>)

35. In the Sierra Leonean case of *State v. Julius Pratt*, Kiiza J. noted that by legislating a maximum fine of Le 30,000,000 or ten years imprisonment or both for the offence of misappropriation of funds:

“the legislature wanted to pass a message to people not to inflict loss on the scarce resources of the government. It is my considered view that the court must enforce such sentences as would pass on this message to would be offenders that no condonation should be expected from them.”<sup>54</sup>

36. Judges in Sierra Leonean courts have used the sentencing guidelines in the 1962 edition of *Archbold* which indicates, by way of example, the following maximum sentences for the following crimes:<sup>55</sup>

- 1) Murder: death penalty
- 2) Attempt to murder: life imprisonment
- 3) Manslaughter: life imprisonment
- 4) Rape: life imprisonment
- 5) Robbery (armed or with aggravation): life imprisonment
- 6) Wounding with intent to maim: life imprisonment
- 7) Malicious damage (causing explosion likely to injure life or property): life imprisonment
- 8) Larceny (from the person or from a dwelling house): 14 years imprisonment
- 9) Housebreaking (felony committed): 14 years imprisonment
- 10) Forcibly or fraudulently taking away a child under 14: 5 years imprisonment

<sup>52</sup> Bankole Thompson, *The Criminal Law of Sierra Leone*, University Press of America, 1999, p. 17.

<sup>53</sup> BBC News, “Huntley Should Die Behind Bars”, 18 March 2007. Attached at Annex G.

<sup>54</sup> *State v. Julius Pratt*, 17 November 2005. Case attached in Annex C.

<sup>55</sup> Archbold, “Criminal Pleading Evidence and Practice” (Sweet and Maxwell 35<sup>th</sup> edn 1962) (“*Archbold 1962*”), at pp. 4301 to 4332, attached at Annex C. Statutes of England that predate 1880 are applicable in Sierra Leone, subject to amendment by Sierra Leonean legislation. Statutes of England that postdate 1880 are only of persuasive authority in Sierra Leone except unless they have been specifically adopted in Sierra Leone. The 1962 edition of Archbold is used for reference in Sierra Leone because subsequent editions deal with legislation that is not applicable in Sierra Leone.

37. Under Sierra Leone law the types of sentences for the following crimes have been handed down in the recent past:

- 1) Murder: death by hanging<sup>56</sup>
- 2) Rape/unlawful carnal knowledge: 15 years imprisonment<sup>57</sup>
- 3) Assault causing grievous bodily harm: 8 years imprisonment,<sup>58</sup> and
- 4) Conspiracy, shop-breaking and larceny: 10 years imprisonment.<sup>59</sup>

38. With respect to convictions for other serious criminal offences, the determination of sentence is largely left to the discretion of the judge based on the particular circumstances of the case taking into account any aggravating and mitigating factors. Judges in Sierra Leone impose significant terms of incarceration for a variety of offences largely because of the need to deter others from committing such crimes in the future.

**(d) GRAVITY OF THE OFFENCES**

39. When determining sentence, the Trial Chamber must consider the gravity of the offence.<sup>60</sup> It has been held by the ICTY Appeals Chamber that the gravity of the offence of which an Accused is convicted is “[B]y far the most important consideration, which may be regarded as the litmus test for the appropriate sentence”.<sup>61</sup> It has

<sup>56</sup> *The State v. Vandi Johnson; The State vs. Tommy M’Bayoh & 3 Others*, attached in Annex C. The penalty for murder is based on the common law.

<sup>57</sup> Under the Prevention of Cruelty to Children Act 1960 (Sierra Leone), the maximum sentence for this crime is 15 years imprisonment. In *State v. Aiah Musa Mommoni*, High Court of Sierra Leone, 3 June 2004. Shuster J., in imposing the maximum sentence of 15 years, held that there were no mitigating factors. The victim in that case was nine years old and the accused was her uncle. The judge in passing sentence stated that, “there needs to be a clear message sent to everyone in this country, you do not abuse any child..... Sierra Leone was the 7<sup>th</sup> signatory to the Convention to the Rights of the Child. My Court will always protect the rights of children....he is lucky that the state did not charge him with the crime of rape because if they would have done so he would have gone to prison for much longer”. Aggravating circumstances in this case were held to be that the convicted person had abused his position of trust and created a very dangerous situation by gagging the child’s mouth. Case attached in Annex C.

<sup>58</sup> Under the *Offences Against the Person Act 1861*, penalties range from five years imprisonment to life imprisonment. In *State v. Hassan Mahoi*, High Court of Sierra Leone, 8 November 2005, Shuster J. held that the fact that the victim was blinded because of the attack and that the accused was laying in wait for her after a court hearing were aggravating circumstances. Case attached in Annex C.

<sup>59</sup> See *State v. Amadu Macaully et. al.*, High Court of Sierra Leone, 25 October 2001. Case attached in Annex C.

<sup>60</sup> Statute, Article 19(2).

<sup>61</sup> *Čelebići* Appeal Judgement, para. 1225. See also *Prosecutor v. Nikolić*, IT-94-2-A, “Judgement on Sentencing Appeal”, Appeals Chamber, 4 February 2005 (“*Nikolić-Dragan Appeal Judgement*”), para 18 and *Stakić* Appeal Judgement, para. 375; *Blaškić* Appeal Judgement, para. 683 (using the expression “litmus test”).

similarly described the gravity of the offence as the “primary consideration”,<sup>62</sup> or the “starting point”.<sup>63</sup>

40. The determination of the gravity of a crime requires a consideration of the particular circumstances of the case, as well as the *form* and *degree* of the participation of the accused in the crime.<sup>64</sup> In other words, the main determinant of any evaluation of an appropriate sentence rests on the circumstances of the crime with which the accused has been found guilty and his role therein.<sup>65</sup> The fact that an accused is found guilty as an “indirect co-perpetrator” does not in itself entitle him to a lower sentence, since the role of “indirect co-perpetrators” can be very significant, particularly in cases of large scale crimes which could not be committed without the help of the indirect co-perpetrators in such ways as planning, instigating, coordinating or organising.<sup>66</sup>

41. The following factors, the Prosecution submits, should be considered in assessing the gravity of the offences in cases before the Special Court. These factors are not to be considered as aggravating circumstances, which are dealt with separately in this Brief, since factors used to determine the gravity of the offence may not also be factors considered in aggravation of the crimes: double-counting is impermissible.<sup>67</sup>

**(i) The number of victims**

42. The number of victims reflects the scale of the crimes will be considered in assessing the gravity of the offence.<sup>68</sup>

**(ii) The impact of the crimes on the victim**

43. In determining the gravity of the crime, relevant considerations will always include the consequences of the crime upon the victim directly injured (that is, “the extent of the

<sup>62</sup> *Čelebići* Appeal Judgement, para. 731; *Brdanin* Trial Judgement, para. 1094.

<sup>63</sup> *Aleksovski* Appeal Judgement, para. 182.

<sup>64</sup> *Stakić* Appeal Judgement, para. 380; *Blaškić* Appeal Judgement, para. 683.

<sup>65</sup> *Kambanda* Trial Judgement, para. 25.

<sup>66</sup> *Stakić* Appeal Judgement, para. 380.

<sup>67</sup> *Deronjić* Appeal Judgement, paras 106-107; *Stakić* Appeal Judgement, paras 412-413, 694; *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-624, “Sentencing Judgement”, Trial Chamber, 19 July 2007, (“**Brima Sentencing Judgement**”), para. 23.

<sup>68</sup> *Prosecutor v. Babić*, IT-03-72-S, “Sentencing Judgement”, Trial Chamber, 29 June 2004 (“**Babić Sentencing Judgement**”), para. 47; *Prosecutor v. Češić*, IT-95-10/1, “Trial Judgement”, Trial Chamber, 11 March 2004, (“**Češić Judgement**”), para. 32.

long-term physical, psychological and emotional suffering of the immediate victims”), and the effects of the crime on relatives of the immediate victims.<sup>69</sup>

**(iii) The impact of the crimes on others**

44. Certain crimes of which Fofana and Kondewa have been convicted, such as collective punishment, are of their nature crimes against an entire population, and in the case of such crimes, the “direct” victim of the crime is the community as a whole that was the subject of that attack. In assessing the gravity of such large scale crimes, the Trial Chamber should take into account the impact of the crime not only on those who were direct victims of violence committed in the course of the crime, but also the impact on other members of the community, such a survivors.<sup>70</sup>
45. Even in those cases where the direct victim of a crime was a particular individual (for instance, in the case of a murder), it is permissible and appropriate for the Trial Chamber, in assessing the gravity of the crime, to consider also the impact of the crimes on others. The Appeals Chamber of the ICTY has held, reversing a contrary finding by the Trial Chamber, that the Trial Chamber is not required to limit its consideration to the impact on the immediate direct victim.<sup>71</sup> It stated that:

“... the case-law of some domestic courts shows that a trial chamber may still take into account the impact of a crime on a victim’s relatives when determining the appropriate punishment. The Appeals Chamber considers that, even where no blood relationships have been established, a trier of fact would be right to presume that the accused knew that his victim did not live cut off from the world but had established bonds with others. In this instance, no consideration was given to the effect of the crimes on these people.”<sup>72</sup>

This passage makes clear that the Trial Chamber should look at the impact of crimes on victims’ relatives, and also the impact on others to whom the victim is not related but with whom the victim has “established bonds”. The Prosecution submits that where a victim has “established bonds” with all members of his or her community, it is appropriate for the Trial Chamber to consider the impact on the community as a whole.

<sup>69</sup> *Blaskić* Appeal Judgement, para. 683.

<sup>70</sup> Prosecutor v. *Nikolić-Momir*, IT-02-60/1-A, “Appeal Judgement”, Appeals Chamber, 8 March 2006, (“*Nikolić-Momir Appeal Judgement*”), paras. 64-66.

<sup>71</sup> *Krnjelac* Appeal Judgement, paras. 259-260.

<sup>72</sup> *Ibid.*, para. 260.

**(iv) Multiple crimes under one count**

46. A conviction for multiple instances of a crime under one count adds to the gravity of the crimes committed.<sup>73</sup>

**(v) The Accused's role and participation in the crime**

47. The determination of the gravity of the crime requires a consideration of the particular circumstances of the case, as well as the form and degree of the participation of the Accused in the crimes.<sup>74</sup>
48. The Trial Chamber must consider the specific role played by the Accused in the commission of the crime,<sup>75</sup> including the functions and duties performed by the Accused and the manner in which those tasks and duties were carried out.<sup>76</sup>
49. Where an Accused is convicted on the basis of superior responsibility under Article 6(3), a consideration of the gravity of offences committed under Article 6(3) of the Statute involves, in addition to a consideration of the gravity of the conduct of the superior, a consideration of the seriousness of the underlying crimes.<sup>77</sup> In particular, an ongoing failure by a superior to exercise the duties to prevent or punish, with its implicit effect of encouraging subordinates to believe that they can commit further crimes with impunity, must be regarded as being of significantly greater gravity than isolated incidents of such a failure.<sup>78</sup> In the *Blaškić* case, the Trial Chamber went so far as to hold that if a commander “fails in his duty to prevent the crime or to punish the perpetrator thereof he should receive a heavier sentence than the subordinates who committed the crime insofar as the failing conveys some tolerance or even approval on the part of the commander towards the commission of crimes by his subordinates and thus contributes to encouraging the commission of new crimes. It would not in fact be consistent to punish a simple perpetrator with a sentence equal or greater to that of the

<sup>73</sup> *Češić* Judgement, para. 34.

<sup>74</sup> Quoted in *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, “Judgement”, Appeals Chamber, 17 December 2004 (“**Kordić and Čerkez Appeal Judgement**”), para. 1061.

<sup>75</sup> *Prosecutor v. Blagojević*, IT-02-60-I, “Trial Judgement”, Trial Chamber, 17 January 2005 (“**Blagojević Trial Judgement**”), para. 833; *Prosecutor v. Mrdja*, IT-02-59-S, “Sentencing Judgement”, Trial Chamber, 31 March 2004 (“**Mrdja Sentencing Judgement**”), para. 21; *Nikolić-Dragan* Sentencing Judgement, para. 114.

<sup>76</sup> *Nikolić-Dragan* Sentencing Judgement, para. 114.

<sup>77</sup> *Čelebići* Appeal Judgement, paras 732 and 741.

<sup>78</sup> *Ibid.*, para. 739.



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commander”.<sup>79</sup> Although the Appeals Chamber significantly reduced the sentence in that case on appeal for various reasons, it did not suggest that this particular finding by the Trial Chamber was incorrect.<sup>80</sup>

**(e) INDIVIDUAL CIRCUMSTANCES OF THE CONVICTED PERSON**

50. Article 19(2) of the Statute directs the Trial Chamber, in imposing sentence, to have regard to the individual circumstances of the convicted person.
51. In relation to this sentencing factor, one Trial Chamber of the ICTR has said that:

“The individualization of the sentence is not possible unless facts about the convicted person’s ‘personality’ are known, including his or her background, behaviour before, during and after the offence, motives of the offence, and demonstration or remorse thereafter.”<sup>81</sup>
52. Such circumstances have been held to include the age, antecedents and reputation of an accused,<sup>82</sup> the social pressures and hostile environment in which the convicted person was operating,<sup>83</sup> and the family situation of the convicted person.<sup>84</sup>
53. However, it has been held that in a case of gravity, no significance of weight can be given to considerations such as the accused’s age<sup>85</sup> or family background,<sup>86</sup> or the fact that an accused has no previous convictions,<sup>87</sup> or is the father of young children.<sup>88</sup> The Appeals Chamber in *Čelebići* has said that evidence as to character of the accused has been considered in both mitigation and aggravation.<sup>89</sup> It has been suggested that the good background of an accused may aggravate more than mitigate, since for a person of good background to commit serious crimes “requires an even greater evil will on his part than that for lesser men”.<sup>90</sup> It is submitted that it is only in exceptional

<sup>79</sup> *Blaškić* Trial Judgement, para. 789.

<sup>80</sup> *Blaškić* Appeal Judgement, paras. 672-729.

<sup>81</sup> *Kambanda* Trial Judgement, para. 34.

<sup>82</sup> *Čelebići* Trial Judgement, paras 1224-1227.

<sup>83</sup> *Čelebići* Trial Judgement, paras 1245-1248.

<sup>84</sup> For instance, *Serushago* Sentence, para. 39.

<sup>85</sup> *Jokić* Sentencing Judgement, para. 100. See also

<sup>86</sup> *Obrenović* Trial Judgement, paras 139-140; *Prosecutor v. Nikolić-Momir*, IT-02-60, Trial Chamber, “Sentencing Judgement”, 2 December 2003, (“*Nikolić-Momir Sentencing Judgement*”), para. 170. See also *Akayesu* Trial Judgement, p. 6-7; *Prosecutor v. Bisengimana*, ICTR-00-60, “Judgement and Sentence”, Trial Chamber, 13 April 2006 (“*Bisengimana Judgement and Sentence*”), para. 180; *Niyitegeka* Judgement, paras 491 and 500.

<sup>87</sup> *Furundžija* Judgement, para. 254; *Prosecutor v. Jelisić*, “Judgement”, Trial Chamber, IT-95-10-T, 14 December 1999 (“*Jelisić Judgement*”), para. 124; *Brđanin* Trial Judgement, para 1127.

<sup>88</sup> *Furundžija* Judgement, para. 254; *Jelisić*, Judgement, para. 124; *Serushago* Appeal Judgement, para 22.

<sup>89</sup> *Čelebići* Trial Judgement, para. 788.

<sup>90</sup> *Tadić* Sentencing Judgement, para. 59.

circumstances that previous good character can be considered as a factor in mitigation.<sup>91</sup>

54. It is only in exceptional or rare cases that ill health should be considered a mitigating factor.<sup>92</sup> For example, in *Simić*, the convicted was a wheelchair-bound paraplegic and in *Serugendo*, the sentence was reduced because the convicted person was suffering from a terminal disease.<sup>93</sup>

**(f) AGGRAVATING CIRCUMSTANCES**

55. The rules require the Trial Chamber to consider any aggravating circumstance in determining an appropriate sentence.<sup>94</sup> Only those circumstances directly related to the commission of the offence charged may be seen as aggravating.<sup>95</sup> To be taken into account by the Trial Chamber, aggravating factors must be proven beyond reasonable doubt.<sup>96</sup>

56. Aggravating factors have been held to include the following:

- 1) the status of victims as civilians, elderly, women, children, wounded, detainees and their position of vulnerability and helplessness;<sup>97</sup>
- 2) the fact that the victims are young, especially where the victims are children;<sup>98</sup>
- 3) “exacerbated humiliation and degradation, depravity and sadistic behaviour”,<sup>99</sup> or “total disregard for the sanctity of human life and dignity”;<sup>100</sup>
- 4) the duration of the criminal conduct, the aggravation being proportionate to the length of time over which the conduct was engaged in;<sup>101</sup>

<sup>91</sup> Prosecutor v. *Galić*, IT-98-29-A, “Appeal Judgment”, Appeals Chamber, 30 November 2006, para 51

<sup>92</sup> *Galić* Appeal Judgment, para. 436.

<sup>93</sup> Prosecutor v. *Serugendo*, ICTR-2005-84-1, “Trial Judgment”, Trial Chamber, 12 June 2006, paras 70-74, 92.

<sup>94</sup> Rule 101(B)(i).

<sup>95</sup> *Kunarac* Trial Judgment, para. 850; *Deronjić* Sentencing Judgment, para. 185.

<sup>96</sup> *Blaškić* Appeal Judgment, para. 696; Prosecutor v. *Naletilić and Martinović*, IT-94-38-A, “Appeals Judgment”, Appeals Chamber, 3 May 2006 (“*Naletilić and Martinović* Appeal Judgment”), para. 592.

<sup>97</sup> *Nikolić-Dragan* Appeal Judgment, para. 66; *Deronjić* Appeal Judgment, para. 124; *Kordić and Čerkez* Appeal Judgment, para. 1088; see also *Brđanin* Trial Judgment, para. 1104; *Nikolić-Dragan* Sentencing Judgment, para. 184; *Blagojević* Trial Judgment, para. 844; *Mrdja* Sentencing Judgment, para. 48.

<sup>98</sup> *Kunarac* Appeal Judgment, paras. 354-355, 381.

<sup>99</sup> Quoted in *Češić* Sentencing Judgment, para. 53. See also *Jelisić* Trial Judgment, paras. 130-131; *Prosecutor v. Bralo*, IT-95-17-S, “Sentencing Judgment”, Trial Chamber, 7 December 2005 (“*Bralo* Sentencing Judgment”), paras 33-35.

<sup>100</sup> *Čelebići* Trial Judgment, para. 1268.

<sup>101</sup> *Kunarac* Appeal Judgment, paras. 356, 382.

- 5) premeditation (for instance, the fact that the accused voluntarily chose to participate in the crime,<sup>102</sup> or the fact that the accused initiated or aggravated a crime, as opposed to being merely a participant who was drawn into a maelstrom of violence);<sup>103</sup>
- 6) in the case of an accused convicted under Article 6(1) of the Statute, the fact that the accused could have not only refrained from participating but could have actually prevented the others from committing the crime;<sup>104</sup>
- 7) behaviour of the accused during trial, such as intimidation of witnesses or the passing of notes between co-accused relating to the merits of the case,<sup>105</sup> or smiling or laughing as survivors of crimes testify.<sup>106</sup>
57. Breach of a position of trust or authority is an additional aggravating factor,<sup>107</sup> for instance, where the accused was in a position which carried with it a duty to protect and defend the very victims of the crimes, such as a position of government official,<sup>108</sup> police chief<sup>109</sup> or commander.<sup>110</sup> Indeed, this has been regarded as an “overwhelmingly aggravating” factor.<sup>111</sup>
58. In the case of an accused convicted under 6(1) of the Statute, it is an aggravating circumstance that the Accused held a high ranking position.<sup>112</sup> In *Brđanin*, the Trial Chamber stated that the “consequences of a person’s acts are necessarily more serious if he is at the apex of a military or political hierarchy and uses his position to commit crimes.”<sup>113</sup> In *Obrenović*, the Trial Chamber noted that it is the actual authority

<sup>102</sup> *Akayesu* Trial Judgement, p. 7; *Kambanda* Trial Judgement, para. 61(B)(vi); *Serushago* Sentence, para. 30; *Kayishema* Sentencing Order, para. 13; *Prosecutor v. Tadić*, *Sentencing Judgement*, para. 55..

<sup>103</sup> *Prosecutor v. Krstić*, IT-98-33, “Trial Judgement”, Trial Chamber, 2 August 2001 (“**Krstić Trial Judgement**”), para. 711.

<sup>104</sup> See *Kordić and Čerkez* Trial Judgement, para. 853. However, in the case of an accused convicted under Article 6(3) for *failure to prevent* crimes committed by subordinates, this is an element of the offence and therefore cannot be taken into account as an aggravating factor.

<sup>105</sup> *Čelebići* Appeal Judgement, para. 789.

<sup>106</sup> *Kayishema* Sentencing Order, para. 17.

<sup>107</sup> *Kayishema* Sentencing Order, para. 15.

<sup>108</sup> *Rutaganda* Trial Judgement, para. 469; *Kambanda* Trial Judgement, para. 44, *Gacumbitsi* Appeal Judgement, para. 193. *Niyitegeka* Judgement, para. 499.

<sup>109</sup> *Todorović* Sentencing Judgement, para. 61.

<sup>110</sup> *Prosecutor v. Sikirica* IT-95-8, “Sentencing Judgement”, Trial Chamber, 13 November 2001 (“**Sikirica Sentencing Judgement**”), paras 139-140; *Ntagerura* Judgement and Sentence, para. 819.

<sup>111</sup> *Bisengimana* Judgement and Sentence, para. 182.

<sup>112</sup> *Krstić* Trial Judgement, para. 709; *Kupreškić* Appeal Judgement, para. 451; *Babić* Sentencing Judgement, para. 61; *Prosecutor v. Stakić*, IT-97-24-T, “Judgement”, Trial Chamber, 31 July 2003 (“**Stakić Judgement**”), para. 913.

<sup>113</sup> *Brđanin* Trial Judgement, para. 1099.

exercised by the Accused and not necessarily the rank that is important – holding a middle-ranking position can also be considered aggravating.<sup>114</sup> The Trial Chamber, in *Blaškić*, added that command position must “systematically increase the sentence or at least lead the Trial Chamber to give less weight to the mitigating circumstances, independently of the issue of the form of participation in the crime.”<sup>115</sup>

59. In *Kamuhanda*, the Trial Chamber noted that “The high position....as a civil servant can be considered as an aggravating factor.”<sup>116</sup>
60. The Trial Chamber noted, in *Kordić and Čerkez*, that the fact that the accused was a leader aggravates the offences.<sup>117</sup>
61. The Appeals Chamber of the ICTR has accepted the principle, consistent with the case law of the ICTY, that “that the most senior members of a command structure, that is, the leaders and planners of a particular conflict, should bear heavier criminal responsibility than those lower down the scale, such as the foot soldiers carrying out the orders. But this principle is always subject to the crucial proviso that the gravity of the offence is the primary consideration of a Trial Chamber in imposing sentence.”<sup>118</sup>
62. Even where an accused held no position of authority, it has been held to be an aggravating factor that the accused held a position of prominence or trust and respect in the community, such that it was likely that others would follow the accused’s example.<sup>119</sup>
63. In the case of an accused convicted under Article 6(3) in respect of a particular crime, the fact of “active participation by a superior in the criminal acts of subordinates” may be regarded as an aggravating factor.<sup>120</sup>
64. As noted above, factors used to determine the gravity of the offence may not also be factors considered in aggravation of the crimes, since double-counting is

<sup>114</sup> *Obrenović* Trial Judgement, para. 99.

<sup>115</sup> *Prosecutor v. Blaškić*, IT-95-14, “Judgement”, Trial Chamber, 3 March 2000 (“*Blaškić Trial Judgement*”), para. 788.

<sup>116</sup> *Kamuhanda* Trial Judgement, para. 764.

<sup>117</sup> *Prosecutor v. Kordić and Čerkez*, IT-95-14/2, “Judgement”, Trial Chamber, 26 February 2001 (“*Kordić and Čerkez Trial Judgement*”), para. 853.

<sup>118</sup> *Musema* Appeal Judgement, para. 383.

<sup>119</sup> *Semanza* Trial Judgement, para. 573 ; *Prosecutor v. Kamuhanda*, ICTR-95-54A-T “Judgement”, Trial Chamber, 22 January 2004 (“*Kamuhanda Trial Judgement*”), para. 764; *Kamuhanda* Appeal Judgement, para. 348.

<sup>120</sup> *Čelebići* Appeal Judgement, para 736.

impermissible.<sup>121</sup> However, a consideration of the role of the accused in determining the gravity of the offence does not preclude considering abuse of authority as an aggravating circumstance.<sup>122</sup>

**(g) MITIGATING CIRCUMSTANCES**

65. As is the case with aggravating factors, the Trial Chamber is required to consider and give appropriate weight to “any mitigating factors.”<sup>123</sup> The finding of mitigating circumstances may result in the reduction of a sentence that would otherwise have been imposed. Accepting the existence of mitigating factors in no way derogates from the gravity of the crime.<sup>124</sup> Mitigating factors need only be proven on the balance of probabilities.<sup>125</sup>
66. Pursuant to Rule 101(B), the only mitigating factor the Trial Chamber is specifically required to consider is the substantial cooperation of the Accused with the Prosecution.<sup>126</sup>
67. Matters that may be taken into account as mitigating factors include diminished mental responsibility,<sup>127</sup> involuntary intoxication (but not intoxication in general),<sup>128</sup> duress or superior orders,<sup>129</sup> or forced participation in the crime.<sup>130</sup> Article 6(4) of the Statute expressly provides that superior orders may be a mitigating factor, but they need not be treated as such if the superior orders were manifestly illegal and were complied with voluntarily by the accused when under no duress to do so.<sup>131</sup>
68. Other matters that may be taken into account as mitigating factors include admission of guilt or early guilty plea,<sup>132</sup> expressions of remorse,<sup>133</sup> voluntary surrender,<sup>134</sup>

<sup>121</sup> *Deronjić* Appeal Judgement, paras 106-107; *Stakić* Appeal Judgement, paras 412-413, 694; *Brima* Sentencing Judgement, para. 23.

<sup>122</sup> *Nikolić-Dragan* Appeal Judgement, para. 61.

<sup>123</sup> Rule 101(B)(ii).

<sup>124</sup> *Brđanin* Trial Judgement, para 1117.

<sup>125</sup> *Naletilić and Martinović* Appeal Judgement, para. 592.

<sup>126</sup> Rule 101(B)ii.

<sup>127</sup> *Celebici* Appeal Judgement, para. 590.

<sup>128</sup> *Kvočka* Appeal Judgement, paras. 707-708.

<sup>129</sup> *Bralo* Sentencing Judgement, para. 53.

<sup>130</sup> *Krstić* Trial Judgement, para. 714.

<sup>131</sup> *Mrdja* Sentencing Judgement, paras 65-68.

<sup>132</sup> *Serushago* Sentence, para. 35; *Prosecutor v. Ruggiu*, ICTR-97-32-I, “Judgement and Sentence”, Trial Chamber, I June 2000, para. 55; *Todorović* Sentencing Judgement, para. 80.

<sup>133</sup> *Serushago* Sentence, paras 40-41.

subsequent conduct demonstrating intentions to “make amends” or to atone for the crimes committed,<sup>135</sup> good behaviour while in detention,<sup>136</sup> and advanced age.

69. In *Brđanin*, the Trial Chamber took into account as credit the length of the Accused’s detention at the time of his sentencing but did not qualify it as a mitigating factor.<sup>137</sup> In *Nikolić*, the Trial Chamber stated that “the problem (of time lapse) has been discussed by the European Court of Human Rights, as well as in decisions of several national courts. Common to all leading decisions is that any disproportionate length of procedures may be considered as a mitigating factor in sentencing.<sup>138</sup> It ruled however that neither the length of time between the criminal conduct (in the 1990s) and the judgement (2003), nor the time between arrest (2000) and judgement, could be considered as a mitigating factor.<sup>139</sup> In *Mrdja*, the court found that a period of 12 years between the commission of the crimes and sentencing proceedings was not so long as to consider it a factor for mitigation.<sup>140</sup>
70. The fact that the accused gave substantial assistance or protection to vulnerable individuals,<sup>141</sup> or saved lives,<sup>142</sup> might constitute a mitigating factor. However, the ICTY Appeals Chamber has made clear that “[S]elective assistance is less decisive when one notes that criminals frequently show compassion for some of their victims even when perpetrating the most heinous crimes.”<sup>143</sup> The jurisprudence on “selective assistance” is consistent and little, if any, weight should be given to this factor.
71. The chaotic situation at the time of commission of the crimes should not be considered as a mitigating factor. In the *Blaškić* case, the Appeals Chamber stated that “A finding that a chaotic context might be considered as a mitigating factor in circumstances of combat operations risks mitigating the criminal conduct of all personnel in a war zone.

<sup>134</sup> *Prosecutor v. Kupreškić et al*, IT-95-16, “Judgement”, Trial Chamber, 14 January 2000 (“*Kupreškić Judgement*”), para. 853.

<sup>135</sup> *Prosecutor v. Babić*, IT-03-72-A, “Judgement”, Appeals Chamber, 18 July 2005 (“*Babić Judgement*”), para. 55; *Obrenović* Trial Judgement, paras 144-146. See also *Babić* Sentencing Judgement, para. 94.

<sup>136</sup> *Kordić and Čerkez* Appeal Judgement, para. 1053.

<sup>137</sup> *Brđanin* Trial Judgement, para. 1134.

<sup>138</sup> *Nikolić-Dragan* Sentencing Judgement, paras 269-270.

<sup>139</sup> *Ibid*, paras 271, 273.

<sup>140</sup> *Mrdja* Sentencing Judgement, para. 104.

<sup>141</sup> *Bralo* Sentencing Judgement, para. 59.

<sup>142</sup> *Češić* Trial Judgement, para. 78.

<sup>143</sup> *Prosecutor v. Kvočka* IT-98-30/1, “Appeals Judgement”, Appeals Chamber, 28 February 2005 (“*Kvočka Appeal Judgement*”), para. 693 quoting *Čelebići* Appeal Judgement para. 776, citing *Blaškić* Trial Judgement, para. 781.

Conflict is by nature chaotic, and it is incumbent on the participants to reduce that chaos and to respect international humanitarian law. The Appeals Chamber sees no merit and no logic in recognizing the mere context of war itself as a factor to be considered in the mitigation of the criminal participants.<sup>144</sup>

72. The principle of the equality of belligerents before the law of war is firmly rooted in both treaty law and state practice.<sup>145</sup> The provisions of the Geneva Conventions “must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the parties to the conflict.”<sup>146</sup> Thus, international humanitarian law applies to all factions in a conflict, be it the government or pro-government militias, or rebels, or liberation groups.<sup>147</sup> As the President of the International Committee of the Red Cross has said in an official statement:

Human rights law, refugee law and international humanitarian law share the common objective of protecting human life, safety and dignity. These bodies of law and their supervisory mechanisms form a interlocking web of guarantees for individuals in particular in times of emergency – when they are most vulnerable. ...

International humanitarian law - *ius in bello* - regulates the conduct of hostilities and protects persons affected by armed conflict, be it international or non-international. Its objective is to prevent and alleviate human suffering during armed conflict. Its rules apply equally to all parties to a conflict regardless of the lawfulness of resort to force. It operates independently of the rules which regulate resort to the use of force. ***For the purposes of international humanitarian law and of the protection it affords, there is no just or unjust war. ...***

Once an armed conflict begins, the rules of international humanitarian law become applicable. As the body of law specifically developed to apply in situations of armed conflict, ***its provisions cannot be suspended in the very situations of public emergency which it is designed to regulate.***

<sup>144</sup> *Blaškić* Appeal Judgement, para 710-711, confirmed in *Bralo* Sentencing Judgement, para. 51 and *Prosecutor v. Banović*, IT-02-65/1, “Trial Judgement”, Trial Chamber, 28 October 2003 (“**Banović Judgement**”), paras 44, 48. See also *Kunarac* Appeal Judgement, para. 408.

<sup>145</sup> François Bugnion, “Jus Ad Bellum, Jus in Bello and Non-International Armed Conflict”, 28 October 2004, p. 9.

<sup>146</sup> *Ibid.*, citing Protocol I to the 1949 Geneva Conventions, Preamble, para. 5.

<sup>147</sup> Protocol I to the 1949 Geneva Conventions, Preamble, para. 5. Under the terms of Art. 31 (2) of the Vienna Convention on the Law of Treaties of 23 May 1969, the Preamble is an integral part of the treaty.

Under common Article 1 of the Geneva Conventions and of Additional Protocol I all States Parties undertook to “respect *and ensure respect*” for their provisions *in all circumstances*.<sup>148</sup>

73. There can be no doubt that in adopting Article 1 common to the Geneva Conventions, States ruled out the possibility of invoking arguments based on the legality of the use of force in order to be released from their obligations under the Conventions.<sup>149</sup> It would be completely at odds with one of the most fundamental principles of international humanitarian law to suggest that the norms of international criminal law do not apply to pro-government forces in an armed conflict against a rebel force, on the ground that the government forces’ cause is “just” or “legal”.
74. Thus, for instance, in the case of *Kordić and Čerkez*, the Trial Chamber rejected a defence argument “that the Bosnian Croats were acting in self-defence” because “the Bosnian Croats were victims of a policy of Muslim aggression in Central Bosnia”.<sup>150</sup> Referring to Article 31(1)(c) of the Statute of the International Criminal Court,<sup>151</sup> the Trial Chamber in that case said that:

Of particular relevance to this case is the last sentence of ... [Article 31(1)(c) of the ICC Statute] to the effect that the involvement of a person in a “defensive operation” does not “in itself” constitute a ground for excluding criminal responsibility. It is therefore clear that any argument raising self-defence must be assessed on its own facts and in the specific circumstances relating to each charge. The Trial Chamber will have regard to this condition when deciding whether the defence of self-defence applies to any of the charges. ***The Trial Chamber, however, would emphasise that military operations in self-defence do not provide a justification for serious violations of international humanitarian law.***<sup>152</sup>

<sup>148</sup> Statement by President of the ICRC, “International law remains one of the strongest tools”, Geneva, 18 March 2003.” (emphasis added).

<sup>149</sup> 1949 Geneva Conventions, Common Article 1.

<sup>150</sup> *Kordić and Čerkez* Trial Judgement, para. 448.

<sup>151</sup> ICC Statute, Article 31(1): “In addition to other grounds for excluding criminal responsibility provided for in this Statute, a person shall not be criminally responsible if, at the time of that person’s conduct: ... (c) The person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph”.

<sup>152</sup> *Kordić and Čerkez* Trial Judgement, para. 452 (emphasis added). See also *Kordić and Čerkez* Appeal Judgement, paras. 835-838. See further, for instance, *Stakić* Trial Judgement, paras. 153-158



75. The ICTY has thus also denied the existence in international criminal law of any defence of *tu quoque* (that is, a defence that the commission of crimes by one side to an armed conflict was justified as a response to the commission of crimes by the other side).<sup>153</sup> Similarly, the commission of crimes under international law cannot be justified on grounds of “military necessity”.

According to a general principle of the contemporary law of armed conflict, military necessity cannot override the provisions regulating conduct in armed hostilities, “[o]therwise, the concept of military necessity would reduce ‘the entire body of the laws of war to a code of military convenience’”. ... Genocide, enslavement, or systematic attacks on the civilian population can never be justified by military necessity.<sup>154</sup>

76. As the Trial Chamber affirmed in the *Kupreškić* case, “most norms of international humanitarian law, in particular those prohibiting war crimes, crimes against humanity and genocide, are also peremptory norms of international law or *jus cogens*, i.e. of a non-derogable and overriding character”.<sup>155</sup>

77. If all sides to an armed conflict are equally bound at all times to comply with the requirements of international criminal law, it cannot be pleaded in mitigation of sentence that a convicted person was fighting for a “just” cause when the crimes were committed, or that the other side to the armed conflict was equally committing crimes, or that the crimes were required to be committed on grounds of “military necessity”.

<sup>153</sup> See, for instance, *Kupreškić* Trial Judgement, paras. 511, 515-520, 765; *Limaj* Trial Judgement, para. 193; *Gacumbitsi* Trial Judgement, para. 165. See also *Kupreškić* Appeal Judgement, para. 25

<sup>154</sup> Ortega, “The ILC Adopts the Draft Code of Crimes Against the Peace and Security of Mankind”, (1997) 1 *Max Planck Yearbook of United Nations Law* 283, p. 308.

<sup>155</sup> *Kupreškić* Trial Judgement, para. 520.

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#### IV. THE CASE OF FOFANA

##### (A) PRACTICE REGARDING PRISON SENTENCES IN THE ICTR

78. The Prosecution refers to Annexes A and B to these Submissions. The limited utility of comparisons with sentences imposed by the ICTR and ICTY has been dealt with above. Nevertheless, the Prosecution submits that, when all relevant factors are considered, the crimes of which Fofana was convicted would have likely led to the imposition of a sentence of life imprisonment at the ICTR (a sentence which the Special Court does not have the power to impose). The Trial Chamber should, when imposing sentence on Fofana, consider the lengthy sentence he would likely have received at the ICTR.

##### (B) PRACTICE REGARDING PRISON SENTENCES IN THE NATIONAL COURTS OF SIERRA LEONE

79. The crimes of which Fofana has been convicted include, in addition to numerous other crimes, aiding and abetting the murders of numerous people at or near Tongo Field.<sup>156</sup> Fofana was also convicted, pursuant to Article 6(3), for the killing of an unknown number of civilians or captured enemy combatants in locations in Bo District, including Koribundo.<sup>157</sup> The Prosecution submits that for these crimes alone, even without consideration of the other crimes of which he has been convicted, Fofana would under the law and practice in Sierra Leone be sentenced to death, a sentence which might be commuted to life imprisonment.

##### (C) GRAVITY OF THE OFFENCES

###### (i) The number of victims

80. The CDF targeted persons supposedly belonging to the RUF and AFRC, including those not taking part in hostilities, but suspected of supporting, sympathizing or failing to actively resist the combined RUF/AFRC forces. These persons were termed “collaborators” or “spies.”<sup>158</sup> Such targeted persons included Police officers - civilians

<sup>156</sup> Trial Chamber’s Judgement, paras 750(i)-(iv), (vi)-(xv).

<sup>157</sup> Trial Chamber’s Judgement, paras 786, 830.

<sup>158</sup> Trial Chamber’s Judgement, para. 765(vii).

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not participating to the hostilities and in charge of the law enforcement - because they had continued to work under the junta regime.<sup>159</sup>

81. The Trial Chamber found that “Fofana’s speech at the passing out parade in December 1997 when the attack on Tongo was discussed was clearly an encouragement and support of Norman’s instructions to kill captured enemy combatants and “collaborators”, to inflict physical suffering or injury upon them and to destroy their houses.”<sup>160</sup> It was further held that “Fofana not only encouraged the Kamajors to follow Norman’s unlawful orders to commit criminal acts but also told them that if they failed to perform accordingly, they should not come back to Base Zero to report but to kill themselves rather than losing their own ground.”<sup>161</sup> Ultimately, the Trial Chamber finds that “Fofana’s speech had a substantial effect on the perpetration of those criminal acts that occurred in Tongo.”<sup>162</sup>
82. The Trial Chamber will recall that the CDF, largely Kamajors, committed horrific crimes. Fofana has been held responsible for many of these crimes, including the murder of a 12 year old boy named Foday Koroma in Talama, Tongo, who was killed by Kamabote, a Kamajor, simply because Koroma “was related to a rebel from Tongo.”<sup>163</sup>
83. The Trial Chamber also held Fofana criminally responsible, pursuant to Article 6(1), for the murders of “Dr. Blood” and a woman named Famata Kamara at the NDMC Headquarters in Tongo on 14 January 1998. Both were killed because they were “considered to be collaborators.”<sup>164</sup>
84. The factual finding of the Trial Chamber on the evidence surrounding the Kamajor attack on Tongo, particularly the NDMC headquarters,<sup>165</sup> is proof of the hideousness of the conduct of the Kamajors, acting under the orders of Fofana. For example, on 14 January 1998, “Kamajors took TF2-048’s uncle, an unidentified woman and an unidentified child behind a house at the NDMC Headquarters in Tongo. The Kamajors

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<sup>159</sup> Trial Chamber’s Judgement, para. 836.

<sup>160</sup> Trial Chamber’s Judgement, para. 722.

<sup>161</sup> Ibid.

<sup>162</sup> Trial Chamber’s Judgement, para. 723.

<sup>163</sup> Trial Chamber’s Judgement, para. 750(i).

<sup>164</sup> Trial Chamber’s Judgement, para. 750(iv).

<sup>165</sup> Trial Chamber’s Judgement, para. 750(vi)-(ix).

returned with blood on their machetes. These people have never been seen again.”<sup>166</sup> Kamajors were killing indiscriminately; innocent civilians, women and children were not spared.

85. The Trial Chamber convicted Fofana for the aiding and abetting of the killings of 20 men on 15 January 1998, who had been accused of being rebels. These men were hacked to death with machetes at the NDMC Headquarters in Tongo.<sup>167</sup>
86. An example of the blatant disregard for the value of human life exhibited by the Kamajors, who were aided and abetted by Fofana, is the Kamajor killing spree at the NDMC Headquarters on the 15 January 1998. Kamajors recklessly shot at a crowd of civilians; many were hit by stray bullets and at least one died.<sup>168</sup>
87. Fofana has also been held to be criminally liable for the deaths of 64 civilians at Kamboma. Kamajors told the crowd that they “had been ordered to kill anyone that passed through Kamboma.” Civilians were put into two separate lines and killed. The corpses rolled into the swamp and the witness was the only one of the 65 civilians found alive.<sup>169</sup>
88. In spite of the glaring presence of a large number of civilians in the Tongo area, the Kamajors continued their killings unabated. Innocent civilians were killed for no reason. The Trial Chamber will recall the evidence of TF2-022, that Kamajors at one of their checkpoints hacked one man to death for carrying a photograph of a rebel.<sup>170</sup> Another instance of reckless disregard for human life is evident in the factual finding that on 15 January 1998, “Kamajors at another checkpoint hacked a boy named Sule to death for carrying a wallet that resembled SLA fatigues.”<sup>171</sup>
89. The Trial Chamber convicted Fofana for the crime of cruel treatment through the aiding and abetting of crimes committed in the towns of Tongo Field.<sup>172</sup> An example of those crimes is that on 14 January 1998, at the NDMC Headquarters in Tongo, a Kamajor hacked at three people with a cutlass.<sup>173</sup> Additionally, the next day, in another related

<sup>166</sup> Trial Chamber’s Judgement, para. 750(vi).

<sup>167</sup> Trial Chamber’s Judgement, para. 750(vii).

<sup>168</sup> Trial Chamber’s Judgement, para. 750(viii).

<sup>169</sup> Trial Chamber’s Judgement, para. 750(xiii).

<sup>170</sup> Trial Chamber’s Judgement, para. 750(x).

<sup>171</sup> Trial Chamber’s Judgement, para. 750(xi).

<sup>172</sup> Trial Chamber’s Judgement, para. 763.

<sup>173</sup> Trial Chamber’s Judgement, para. 756(i).

incident, at a checkpoint in Dodo, Kamajors hacked the right hand of a man they thought was a rebel.<sup>174</sup>

90. The Trial Chamber has also held Fofana individually criminally responsible for the cruel treatment of TF2-035 who was shot five times by a child soldier named “Small Hunter.”<sup>175</sup>
91. Furthermore, the Trial Chamber found beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for aiding and abetting in the preparation of the crime of collective punishment in the towns of Tongo Field.<sup>176</sup> The criminal acts described above, were found by the Trial Chamber to have been perpetrated with the specific intent to punish the civilian population in Tongo Field and the surrounding areas.<sup>177</sup>
92. Through aiding and abetting crimes in the Tongo Field area, the Trial Chamber has found Fofana individually criminally responsible for the deaths of 102 innocent civilians in the Tongo Field area.
93. The gravity of the crimes for which Fofana has been found guilty is manifest in another crime location, namely, Koribundo. The Trial Chamber found Fofana individually criminally responsible, pursuant to Article 6(3), for the murder of an unknown number of civilians or captured enemy combatants.<sup>178</sup> The Trial Chamber found beyond reasonable doubt that the following criminal acts were committed by perpetrators who were Kamajors under the effective control of Fofana:<sup>179</sup>
  - 1) On 15 February 1998, the mutilation and killing at Koribundo junction of five Limba who had been accused of being collaborators.<sup>180</sup>
  - 2) On 15 February 1998, the mutilation and killing at Blama Road of two Limba civilians.<sup>181</sup>
  - 3) On 16 February 1998, the killing of eight people along the Blama Road: five men belonging to the junta and three soldier’s wives.<sup>182</sup>

<sup>174</sup> Trial Chamber’s Judgement, para. 756(ii).

<sup>175</sup> Trial Chamber’s Judgement, para. 756(iv).

<sup>176</sup> Trial Chamber’s Judgement, para. 763.

<sup>177</sup> Trial Chamber’s Judgement, para. 761.

<sup>178</sup> Trial Chamber’s Judgement, paras 786-787.

<sup>179</sup> Trial Chamber’s Judgement, para. 787.

<sup>180</sup> Trial Chamber’s Judgement, para. 786(i).

<sup>181</sup> Trial Chamber’s Judgement, para. 786(ii).

- 4) On 16 February 1998, the killing and mutilation of Chief Kafala took place in the street opposite the hospital. Chief Kafala had been accused of collaboration; this killing took place in the presence of many people.<sup>183</sup>
- 5) After the capture of Koribundo, Lahai Bassie was arrested, beaten and accused of being a collaborator because his son was a soldier. He died of his wounds one week later.<sup>184</sup>
94. Fofana as a superior, pursuant to Article 6(3), has been held to be individually criminally responsible for the deaths of 17 innocent civilians in Koribundo.
95. The Trial Chamber also convicted Fofana pursuant to Article 6(3) for the crimes of cruel treatment<sup>185</sup> and collective punishment<sup>186</sup> for the acts of Kamajors in Koribundo. The Trial Chamber found that the perpetrators of those crimes were under the effective control of Fofana.<sup>187</sup>
96. The Trial Chamber found beyond reasonable doubt that Fofana, as a superior, pursuant to Article 6(3), is individually criminally responsible for the crimes of murder, cruel treatment, pillage and collective punishment committed in Bo District.<sup>188</sup>
97. In the case of murder, the Trial Chamber made a factual finding that Kamajors, on the order of TF2-017, killed an unidentified woman, “alleged to have cooked for the rebels.”<sup>189</sup> Additionally Kamajors under the control of Joseph Lappia killed John Musa, an alleged collaborator.<sup>190</sup> The Chamber concluded that the perpetrators were Kamajors under the effective control of Fofana.<sup>191</sup>
98. Fofana was convicted under Article 6(3) for the crime of cruel treatment in the Bo District. This conviction was based on the factual finding that on 15 February 1998, “OC Bundu was detained and beaten by Kamajors under the leadership of Nallo, Agbamu Murray and John Ngombeh”<sup>192</sup> Additionally, on 16 February 1998, in

<sup>182</sup> Trial Chamber’s Judgement, para. 786(iii).

<sup>183</sup> Trial Chamber’s Judgement, para. 786(iv).

<sup>184</sup> Trial Chamber’s Judgement, para. 786(v).

<sup>185</sup> Trial Chamber’s Judgement, para. 793.

<sup>186</sup> Trial Chamber’s Judgement, para. 797.

<sup>187</sup> Trial Chamber’s Judgement, para. 792.

<sup>188</sup> Trial Chamber’s Judgement, para. 846.

<sup>189</sup> Trial Chamber’s Judgement, para. 830(i).

<sup>190</sup> Trial Chamber’s Judgement, para. 830(ii).

<sup>191</sup> Trial Chamber’s Judgement, para. 831.

<sup>192</sup> Trial Chamber’s Judgement, para. 835(i).

Kandeyama, “TF2-001 and other police were separated from other civilians on the order of Kamajor leaders including Agbamu Murray. The police were arrested.”<sup>193</sup> The Trial Chamber found that “OC Bundu and TF2-001 were targeted by the Kamajors because of their status as police officers, a group that was considered by the Kamajors to have collaborated with the juntas.”<sup>194</sup> The Trial Chamber held that “it is a reasonable inference that the screening for collaborators experienced by OC Bundu and TF2-001 caused serious mental suffering.”<sup>195</sup>

99. It is the Trial Chamber’s finding that “Fofana had both the legal and material ability to prevent the commission of criminal acts of subordinates, particularly Nallo, or to punish them for their acts.”<sup>196</sup> In relation to Fofana’s criminal responsibility, the crimes committed by his subordinates were crimes of the most serious gravity, and Fofana’s failure to prevent or punish the commission of these crimes must be considered correspondingly grave.

**(ii) The impact of the crimes on the victims and others**

100. The impact of the crimes on the general population can be considered in a determination of the gravity of the offence. This is distinct from the position of vulnerability and helplessness of victims which can be considered in aggravation.<sup>197</sup>
101. The Trial Chamber found beyond reasonable doubt that “on 13 February 1998, TF2-032’s nine-room house in Koribundo was set on fire. TF2-032 testified that he is still suffering from the loss: his children are scattered and, despite his advanced age, he currently sleeps in a kitchen.”<sup>198</sup>
102. After the capture of Koribundo, the Chamber found that “Kamajors went on a rampage and burned 25 houses. People felt helpless, discouraged, and feared for their lives.”<sup>199</sup>
103. As the evidence has shown the impact of the crimes left the general population in a constant state of fear and uncertainty. Large sections of the population were forced to

<sup>193</sup> Trial Chamber’s Judgement, para. 835(ii).

<sup>194</sup> Trial Chamber’s Judgement, para. 836.

<sup>195</sup> Ibid.

<sup>196</sup> Trial Chamber’s Judgement, para. 774.

<sup>197</sup> *Nikolić-Dragan* Appeal Judgement, para. 66.

<sup>198</sup> Trial Chamber’s Judgement, para. 791(i).

<sup>199</sup> Trial Chamber’s Judgement, para. 791(ii).

flee their villages to seek safety, many lost their homes, their property, their livelihood and their loved ones. Consequently, there was a loss of economic productivity which had a serious financial impact on the entire country. Trial Chamber II noted that “Victims who had their limbs hacked off not only endured extreme pain and suffering, if they survived, but lost their mobility and capacity to earn a living or even to undertake simple daily tasks. They have been rendered dependent on others for the rest of their lives.”<sup>200</sup> The detrimental impact that the crimes had on the general population of Sierra Leone should be considered in adding to the gravity of the crimes of which Fofana was convicted and lead to a higher sentence being imposed.

104. Annex F to these Submissions contains various articles written on the impact of similar crimes to those committed on the victims in this case, which may assist the Trial Chamber in determining an appropriate sentence for Fofana.
105. The Prosecution reserves its right, with the leave of the Trial Chamber, at any sentencing hearing, to call witnesses, submit documentation including reports and give oral submissions on the impact of the crimes on the victims.<sup>201</sup>

**(iii) Cumulative convictions**

106. The Trial Chamber should take into account in sentencing the fact that in relation to certain conduct, Fofana satisfied the legal elements of more than one crime within the jurisdiction of the Special Court, and was therefore convicted cumulatively of more than one crime in respect of the same conduct.<sup>202</sup> A convicted person cannot be punished more than once in respect of the same conduct. However, conduct that satisfies the elements of more than one crime within the jurisdiction of the Special Court is graver than conduct which satisfies the elements of only one crime, and this should be reflected in sentencing.

**(iv) The Accused’s role and participation in the crime**

107. The role and participation of Fofana in the crimes of which he was convicted, shows that he was not an unwilling participant but rather a primary pioneer and aggravator of

<sup>200</sup> *Brima* Sentencing Judgement, para. 46.

<sup>201</sup> See *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T, Status Conference Transcript, 20 March 2007, p. 76 (line 21) to p. 77 (line 20) where the Trial Chamber indicated that there is a “bifurcated” process where sentencing is separate from the trial process.

<sup>202</sup> Trial Chamber’s Judgement, para. 845.



the violence. Most of the crimes were deliberate, unprovoked, brutal, and committed against unarmed civilians including men, women, and children, the intention of which was to kill, burn, loot, and collectively punish the civilian population. These crimes were heinous, targeted very large numbers of unarmed civilians and had a devastating and irreversible impact on the lives of the victims and their families.

108. The Trial Chamber held that “Fofana in his capacity as Director of War at Base Zero planned and executed the war strategies and received frontline reports from the commanders.”<sup>203</sup> Additionally, “Fofana selected commanders to go to battle and could, on occasion, issue direct orders to these commanders. For example, he issued the order to Joe Timidey not to release captured vehicles and other items to any person until they were registered with the CDF Headquarters.”<sup>204</sup>
109. Overwhelming evidence was presented that Fofana was responsible for the receipt and provision of ammunitions at Base Zero.<sup>205</sup> Even Defence witnesses acknowledged this role and admitted that he was a storekeeper of some sort.<sup>206</sup>
110. Fofana played an essential role in the CDF organisation. He received reports from the frontline, such reports would go through him before ultimately reaching Norman. He was thus at a vantage position to understand and be well informed of Kamajor activities and locations. At Base Zero, a Situation Report dated 16 November 1997 was prepared by TF2-079. It narrated crimes which were committed by Kamajors in Lower Bambara and Dodo Chiefdoms. Arms and ammunitions were requested and attacks which had been launched in the area were described.<sup>207</sup>
111. Fofana was seen as having power and authority at Base Zero and “was the overall boss of the commanders.”<sup>208</sup> The Trial Chamber held that “Fofana encouraged and supported the Kamajors in their actions, in consequence of which they committed acts of killing and infliction of physical suffering or injury in Tongo.”<sup>209</sup>

<sup>203</sup> Trial Chamber’s Judgement, para. 721(iv).

<sup>204</sup> Trial Chamber’s Judgement, para. 721(v).

<sup>205</sup> Trial Chamber’s Judgement, para. 721(v).

<sup>206</sup> Brima Tarawally Transcript, 5 October 2006, p. 85.

<sup>207</sup> Trial Chamber’s Judgement, para. 721(ix); Exhibit 86, confidential.

<sup>208</sup> Trial Chamber’s Judgement, para. 721(vi).

<sup>209</sup> Trial Chamber’s Judgement, para. 724.

**(D) INDIVIDUAL CIRCUMSTANCES OF THE CONVICTED PERSON**

112. The Prosecution submits that there is nothing in the personal circumstances of Fofana that would point to any mitigation of his sentence, and that if anything, his personal circumstances go to aggravation of sentence.
113. Fofana, is believed to have been born in 1950, in Nongoba Bullom Chiefdom, Bonthe District, in the Republic of Sierra Leone.<sup>210</sup> Fofana was in a position of authority, invested with power and responsibility over his subordinates.
114. As Director of War of the CDF, Fofana was working side by side with Norman, and Kondewa. These were “the key and essential components of the leadership structure of the organization.”<sup>211</sup> This Trial Chamber further noted that these three men “were the executives of the CDF actually taking decisions, while nobody else could take a decision in their absence. They were the leaders of the CDF and all Kamajors looked up to them.”<sup>212</sup> Fofana exercised effective control over his subordinate Kamajors.<sup>213</sup> None of his known individual circumstances mitigates the seriousness of his crimes.

**(E) AGGRAVATING CIRCUMSTANCES**

115. The Prosecution submits that there are significant aggravating circumstances in Fofana’s case.
116. Many of the victims of the crimes were vulnerable civilians, including young children and pregnant women.
117. The crimes committed were of a particularly heinous nature. As a superior, Fofana is individually criminally responsible for the acts of Kamajors troops in Koribundo. He is responsible for the burning of houses and the killing of supporters and collaborators. Kamajors deliberately intended to collectively punish the whole population of Koribundo.<sup>214</sup> Some of the crimes committed there were particularly brutal, including the killing of two women, who were wives of soldiers, by having sticks inserted through their genitals until they came out through the women’s mouths.<sup>215</sup>

<sup>210</sup> *Prosecutor v. Norman, Fofana, Kondewa*, “Indictment”, 5 February 2004, para. 2.

<sup>211</sup> Trial Chamber’s Judgement, para. 721(i).

<sup>212</sup> *Ibid.*

<sup>213</sup> Trial Chamber’s Judgement, paras 787, 792.

<sup>214</sup> Trial Chamber’s Judgement, para. 798.

<sup>215</sup> Trial Chamber’s Judgement, para. 423.

118. The Trial Chamber found that “individuals were intentionally killed; in the majority of the cases they were specifically targeted because of the perpetrator’s belief that they were “collaborators” or rebels.”<sup>216</sup>
119. It is an aggravating factor that Fofana’s actions were premeditated. He was not simply drawn into a situation of violence, but in fact, he encouraged and supported the continuation of that violence.
120. The Trial Chamber found as a fact that at a passing out parade at Base Zero between 10 and 12 December 1997, Norman gave instructions for the Tongo and Black December operations. “After hearing Norman’s instructions, Fofana addressed the Kamajors saying that any commander failing to perform accordingly and ‘losing your own ground’ should kill himself and not come to report at Base Zero.”<sup>217</sup> The Trial Chamber further held that “those Kamajors who then proceeded to attack Tongo not only received a direction from Norman to commit specific criminal acts, they also had a clear encouragement and support from Fofana, as one of their leaders, to commit such acts.”<sup>218</sup> Fofana’s speech “had a substantial effect on the perpetration of those criminal acts.”<sup>219</sup>
121. At another passing out parade at Base Zero in early January 1998, after Norman gave orders to Kamajors to launch an ‘all-out offensive’, Fofana addressed the Kamajors. Fofana not only confirmed Norman’s orders to attack various junta held territories but also told the fighters that “the failure to take Koribundo was a disgrace to the Kamajors and that this time he wanted them to go and capture Koribundo.”<sup>220</sup> The Trial Chamber found that Fofana as a superior “knew that the attack on Koribundo would involve the commission of criminal acts by Nallo, Joe Timiday, Borbor Tucker, Lamin Ngobeh and other commanders. He was present at the meetings at which the unlawful orders, namely to take Koribundo ‘at all costs’, kill who was left in the town for being a ‘collaborator’ and destroy or burn everything in Koribundo, except for a mosque,

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<sup>216</sup> Trial Chamber’s Judgement, para. 787.

<sup>217</sup> Trial Chamber’s Judgement, para. 721(x).

<sup>218</sup> Trial Chamber’s Judgement, para. 722.

<sup>219</sup> Trial Chamber’s Judgement, para. 723.

<sup>220</sup> Trial Chamber’s Judgement, para. 765(ii).

church, the Barri, and the school, had been given to these Kamajors commanders by Norman.”<sup>221</sup>

122. In relation to the crimes of which Fofana was convicted, but of which he was not the immediate perpetrator, it is an aggravating factor that he used coercive means to ensure that these crimes were committed by others, in particular by means of threatening fighters not to return to Base Zero until Koribundo is captured.
123. The Prosecution submits that the continuous repetition of the crimes for which Fofana was convicted, and his repeated issuance of orders to commit crimes, as well as the fact that he was one of the “designers” of the system of killing of collaborators, sympathizers or, those who simply failed to actively resist the combined RUF/AFRC forces clearly establishes that all of the acts of Fofana on which his criminal liability was based were premeditated.
124. Fofana, as Director of War, was invested with the key role of receipt and provision for the commanders at Base Zero upon the instructions of Norman.<sup>222</sup> The Trial Chamber will recall that there is proof beyond reasonable doubt that his contribution to the supplying of logistics to the troops was essential and substantial, especially in the view of the nature of the conflict where the control of supplies was a paramount consideration. Fofana was never just an important figure “in title only.”<sup>223</sup>
125. The Prosecutor submits that, more significant than an accused’s responsibility or influence in the community, is the degree to which he can be said to be acting in breach of trust in committing an offence. The trust bestowed on Fofana, a former chieftom speaker, a community elder and the CDF National Director of War, was enormous. Fofana’s betrayal of his people should be considered extremely aggravating.
126. As their elder, Fofana was entirely trusted by his subjects and those that rallied around him for security reasons. These are the very people that turned out to be the victims. Fofana was a member of the War Council, and as such was entrusted with helping the security and well-being of those people of Talia and the surrounding villages. Even the Defence witnesses acknowledged the respect and awe that was attached to Fofana.<sup>224</sup>

<sup>221</sup> Trial Chamber’s Judgement, para. 777.

<sup>222</sup> Trial Chamber’s Judgement, para. 721(v).

<sup>223</sup> Fofana Final Trial Brief, 24 November 2006, para. 318.

<sup>224</sup> Billoh Conteh, Transcript 28 September 2006, p. 49 (line 24) to p. 50 (line 15).

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127. The attacks on civilians in Tongo and in Koribundo, on the instructions and support of Fofana, betrayed the trust of his people. This was clearly manifested in the Koribundo meeting where Norman “scolded the Kamajors for not having done the work he had told them to do, in particular to destroy all houses, except three.”<sup>225</sup> The witnesses that attended that meeting left feeling very disappointed in the CDF leadership.<sup>226</sup> Fofana betrayed his “constituents” with unbelievable cruelty. Fofana’s breach of trust in this case is seriously aggravating.

**(F) MITIGATING CIRCUMSTANCES**

128. The Prosecution submits that there are no mitigating circumstances in Fofana’s case. In particular, for purposes of the application of Rule 101(B)(ii), he has not, at any time, co-operated in any way with the Prosecution.

129. There is no evidence that Fofana committed his crimes under duress, or that he was not a voluntary or willing perpetrator of the crimes. Indeed, as the above sections have shown, he was a prime mover of their commission. The fact that an accused reiterated orders previously issued by a superior cannot be considered as mitigation.<sup>227</sup>

130. A lack of prior criminal convictions can serve as a mitigating factor, but the fact that a convicted person does not have a criminal record must not be given significant weight considering the gravity of the crimes.<sup>228</sup> In Sierra Leone there is no uniform system for recording criminal convictions; therefore, the absence of a criminal record does not mean that criminal convictions have not been entered against a person.

131. Even if Fofana does not have any prior convictions this must be given very little, if any weight as a mitigating factor. At any rate such mitigation which may be given would be far out weighed by the gravity of the crimes for which Fofana has been convicted.

132. Fofana has never expressed remorse for his crimes. Fofana was allegedly a member of the Commission for the Consolidation of Peace.<sup>229</sup> However, no evidence was led at trial to show what that body actually did and what role Fofana played in its functions. In the absence of such evidence, any such activities cannot be regarded as conduct

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<sup>225</sup> Trial Chamber’s Judgement, para. 765(xiii).

<sup>226</sup> TF2-159, Transcript 9 September 2004, p. 54 (lines 20-26); TF2-032, Transcript 13 September 2004, p. 62 (lines 7-10).

<sup>227</sup> *Brima* Sentencing Judgement, para. 122.

<sup>228</sup> *Brđanin* Trial Judgement, para. 1127.

<sup>229</sup> Also known as the “Peace Officer”, see: TF2-008 Transcript, 23 November 2004, p. 20 (line 26) to p. 21 (line 2).

demonstrating an attempt to “make amends” or to atone for his crimes. Trial Chamber II found that “alleged acts of philanthropy and alleged involvement in the Commission for the Consolidation of Peace are not mitigating factors”.<sup>230</sup> In any event, given the gravity of the crimes of which Fofana was convicted, any such activities should be accorded very little, if any, weight in mitigation.

133. The crimes for which Fofana has been convicted were committed largely against an unarmed civilian population in clearly non-chaotic circumstances. This ground of mitigation is therefore not open to Fofana. Furthermore, even if such circumstances did exist the jurisprudence in this area states that the existence of a chaotic environment is not a mitigating factor. Additionally, the Trial Chamber II found that “the battlefield is always chaotic and therefore this fact cannot be considered as mitigating.”<sup>231</sup>
134. Fofana’s lack of formal education cannot be considered in mitigation. One does not have to be formally educated to know that innocent civilians must not be targeted during a conflict. Neither the ICTR nor the ICTY has recognized the lack of formal education as a mitigating factor.<sup>232</sup>
135. While the CDF, largely the Kamajors, may have been fighting for the restoration of democracy in Sierra Leone,<sup>233</sup> this cannot override individual responsibility for war crimes, nor provide an umbrella under which perpetrators of war crimes can seek refuge or plead mitigation of sentence after being convicted of international war crimes. If that were the case, the RUF and AFRC could equally seek to argue that they were fighting for the eradication of corruption and the abuse of power. Entertaining such arguments would not only draw an international criminal court into the invidious position of having to make judgements about which of the sides in an armed conflict were the “right” side and the “wrong” side, but would also undermine the fundamental purpose of international humanitarian law and justify unbridled violence and the abdication of the rule of law.
136. Fofana was convicted of killing unarmed innocent civilians, including women and children who were punished only because in some way they were thought to be

<sup>230</sup> *Brima* Sentencing Judgement, para. 65.

<sup>231</sup> *Brima* Sentencing Judgement, para 124.

<sup>232</sup> Education has been held to be an aggravating factor in some cases: *Kvočka* Appeal Judgment, para. 678.

<sup>233</sup> Trial Chamber’s Judgement, para. 693.

associated with the enemy. Allowing for mitigation in sentence on the basis that the convicted persons were fighting on the side of the government and/or restoring democracy would only send the message that international humanitarian law does not have to be followed by all sides in an armed conflict. In fact, history shows that the more the warring factions insist on the sanctity of their reasons for resorting to armed force, the more those same reasons are used to justify the worst excesses. International humanitarian law can not be used as a defensive shield for perpetrators of international war crimes.

137. The Prosecution submits that although the Trial Chamber must consider any mitigating circumstance, the weight to be placed on them should be minimal, given the gravity of the offences and the aggravating factors. The Trial Chamber should follow the sentencing jurisprudence of the ICTR, where, more often than not, the aggravating factors were held to outweigh the mitigating factors and a significant term of imprisonment which reflected the gravity of the offences was imposed.<sup>234</sup>

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<sup>234</sup> *Akayesu* Trial Judgement, para 181, *Prosecutor v. Kajelijeli*, ICTR-98-44A-A, “Judgement”, Appeals Chamber, 23 May 2005, para. 314; *Kambanda* Trial Chamber, paras 61-61 confirmed by Appeals Chamber paras 123-126; *Bisengimana* Judgement and Sentence, para. 181, *Kayishema* Sentencing Order, paras 22-23, *Musema* Judgement and Sentence, paras 1005-1008 affirmed by Appeals Chamber, para 396; *Niyitegeka* Trial Judgement, para. 500 affirmed by Appeals Chamber at paras 267-268; *Prosecutor v. Ntakirutimana*, ICTR-96-10; 2: ICTR-96-17, “Judgement and Sentence”, Trial Chamber, 21 February 2003, para. 913.

## V. THE CASE OF KONDEWA

### (A) PRACTICE REGARDING PRISON SENTENCES IN THE ICTR

138. The Prosecution refers to Annexes A and B to these Submissions and paragraphs 23-31. Kondewa has been found guilty of numerous violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, including murder, cruel treatment and the enlistment of child soldiers.<sup>235</sup> The Prosecution submits that when all relevant factors are considered, the crimes of which Kondewa was convicted would have led to the imposition of a sentence of life imprisonment at the ICTR (a sentence which the Special Court does not have the power to impose). The Trial Chamber should, when imposing sentence on Kondewa, consider the lengthy sentence he would likely have received at the ICTR.

### (B) PRACTICE REGARDING PRISON SENTENCES IN THE NATIONAL COURTS OF SIERRA LEONE

139. The Trial Chamber held that Kondewa shot and killed a Town Commander in Talia because he was considered to be a “collaborator.”<sup>236</sup>

140. The Prosecution refers to paragraphs 32-38 and submits that for this crime alone, even without the consideration of the other crimes of which he has been convicted, Kondewa would, under the law and practice of Sierra Leone, be liable to be sentenced to death, a sentence which might be commuted to life imprisonment.

### (C) GRAVITY OF THE OFFENCES

#### (i) The number of victims

141. The crimes for which Kondewa were convicted involved a large number of unarmed civilians. The Prosecution draws the Trial Chamber’s attention specifically to the fact that Kondewa has been held responsible for the murder of 150 Loko, Limba and Tembe tribe members in Talama in January 1998<sup>237</sup> and the deaths of 64 civilians who were shot and hacked to death in Kamboma after the third attack on Tongo.<sup>238</sup>

<sup>235</sup> Disposition, pp. 290-292.

<sup>236</sup> Trial Chamber’s Judgement, paras 934, 921(iii), 622, 623.

<sup>237</sup> Trial Chamber’s Judgement, para. 750(ii).

<sup>238</sup> Trial Chamber’s Judgement, para. 750(xiii).



142. Additionally, Kondewa has been held criminally liable for the following murders in Tongo: a 12 year old boy named Foday Koroma, 2 men identified as rebels at the NDMC Headquarters, “Dr. Blood” and Fatmata Kamara at the NDMC Headquarters, TF2-048’s uncle and an unidentified woman and child, 20 men accused of being rebels, 1 civilian hit by stray bullets at the NDMC Headquarters, TF2-048’s brother, a man hacked to death for carrying a photograph of a rebel, a boy named Sule, 5 men in Bumie, Aruna Konowa and Brima Conteh.<sup>239</sup>
143. This Trial Chamber has also held Kondewa criminally liable, pursuant to Article 6(3), for the murders of Kpana Manso, Bendeh Battiamo, Abu Conteh and a woman named Jitta in Bonthe.<sup>240</sup> Kondewa is also criminally responsible for the deaths of 2 Town Commanders in Talia, one of which Kondewa, himself, shot.<sup>241</sup>
144. Kondewa has also been held criminally responsible for the cruel treatment of numerous civilians, including 3 people who were hacked with a cutlass at the NDMC Headquarters in Tongo.<sup>242</sup> The right hand of a man suspected of being a rebel was hacked and one man was hacked in the neck with a machete and left for dead.<sup>243</sup> Additionally, Kondewa has been convicted of cruel treatment in Bonthe. The Trial Chamber has held him responsible for the mental suffering of: Lahai Ndoko Koroma who was striped naked and tied; TF2-116, whose life was threatened because she was suspected of being a junta; Bendeh Battiamo, who was singled out and accused of being a collaborator and later killed, and TF2-086, who was detained and had her life threatened in March 1998.<sup>244</sup>
145. Kondewa was also held criminally responsible for the looting of household items and equipment from a number of locations in Bonthe Town. For instance, TF2-116’s house was looted and 17,900,000 leones were taken and 140,000 leones were taken from TF2-086 on the road between Sebongie and Bonthe.<sup>245</sup> Kondewa was also found guilty of

<sup>239</sup> Trial Chamber’s Judgement, paras 750, 753.

<sup>240</sup> Trial Chamber’s Judgement, paras 883(i)-(iv), 887.

<sup>241</sup> Trial Chamber’s Judgement, paras 921(iii), 934.

<sup>242</sup> Trial Chamber’s Judgement, paras 756(i).

<sup>243</sup> Trial Chamber’s Judgement, paras 756(ii), 764.

<sup>244</sup> Trial Chamber’s Judgement, paras 890-893.

<sup>245</sup> Trial Chamber’s Judgement, paras 896(ii), (iii), 898.

looting in Moyamba District as well for a Mercedes Benz, a generator, car tires and other gadgets taken from TF2-073.<sup>246</sup>

146. Kondewa's crimes affected a large number of civilian victims. The crimes for which Kondewa was convicted of in Tongo and Bonthe were committed for the purpose of imposing collective punishment on the civilian population.<sup>247</sup>

**(ii) The impact of the crimes on the victims and others**

147. The Prosecution refers to paragraph 43-45 above.
148. Annex D to this Brief contains portions of transcripts of witnesses who suffered distress whilst giving evidence of the crimes of which they were victim and which they were forced to recall. The video recordings of the testimony of these witnesses have been retained as part of the trial record and are available for review by the Trial Chamber in the context of the sentencing hearing.

**(iii) Cumulative convictions**

149. The Prosecution refers to paragraph 46 and 106 above.

**(iv) The Accused's role and participation in the crimes**

150. Kondewa, the High Priest of the CDF organization, was in charge of the initiations at Base Zero and was the leader of all the initiators throughout Sierra Leone.<sup>248</sup> As this Trial Chamber has held, Norman, Fofana and Kondewa "were the key and essential components of the leadership structure of the organisation. They were the executives of the CDF actually taking the decisions, while nobody else could take a decision in their absence. They were the leaders of the CDF and all the Kamajors looked up to them."<sup>249</sup> Kondewa, specifically, was essential to the CDF organization because Kamajors looked up to him and believed that he could protect them from harm. Ultimately, "[N]o Kamajor would go to war without Kondewa's blessings."<sup>250</sup>

<sup>246</sup> Trial Chamber's Judgement, paras 951, 955.

<sup>247</sup> Trial Chamber's Judgement, paras 761, 901, 902.

<sup>248</sup> Trial Chamber's Judgement, para. 721(vii).

<sup>249</sup> Trial Chamber's Judgement, para. 721(i).

<sup>250</sup> Trial Chamber's Judgement, paras 721(vii), 735.

151. Kondewa, along with others, made strategic war decisions determining when and where to go to war.<sup>251</sup> He attended passing out parades and he signed certificates that trainees received once they had completed their training.<sup>252</sup>
152. Following the passing out parade at Base Zero in December of 1997, Kondewa told the fighters that the time for the “surrender of rebels had long been exhausted and that they did not need any surrendered rebels.”<sup>253</sup> Kondewa was present at and participated in the discussion at a subsequent meeting where plans to attack Tongo were discussed.<sup>254</sup>
153. The Trial Chamber has held that Kondewa supported and encouraged Kamajors, through speeches and blessings, “to kill captured enemy combatants and “collaborators,” to inflict physical suffering or injury upon them and to destroy their houses.”<sup>255</sup>
154. The role played by Kondewa in terms of the form and degree of participation in the crimes and his willingness and enthusiasm in the participation in the crimes for which he has been convicted should be considered as adding to the gravity of the crimes for which Kondewa was convicted and lead to the imposition of a lengthy term of imprisonment.
155. There is no evidence that Kondewa was coerced or forced to take the position he held within the CDF.

**(D) INDIVIDUAL CIRCUMSTANCES OF THE CONVICTED PERSON**

156. The Prosecution submits that there is nothing in the personal circumstances of Kondewa that suggest any mitigation of his sentence, and that if anything, his personal circumstances point to aggravation of sentences.
157. Kondewa is believed to have been born Bo District, in the Republic of Sierra Leone. Before his arrest, he resided in the Bumpeh Chiefdom, Bo District.<sup>256</sup>
158. Kondewa was not simply a spiritual leader. He was an important personality with the CDF as he fulfilled the function of mysticism and invulnerability, ensuring the continuity and invincibility of Kamajor authority. Kondewa was perceived by the

<sup>251</sup> Trial Chamber’s Judgement, para. 721(iii).

<sup>252</sup> Trial Chamber’s Judgement, para. 721(viii).

<sup>253</sup> Trial Chamber’s Judgement, paras 721(x), 735.

<sup>254</sup> Trial Chamber’s Judgement, paras 721(xi), 738.

<sup>255</sup> Trial Chamber’s Judgement, para. 735.

<sup>256</sup> *Prosecutor v. Norman, Fofana, Kondewa*, “Indictment”, 5 February 2004, para. 3.

majority of witnesses as being an important person, someone endowed with supernatural powers and whose blessings make fighters immune from bullets.<sup>257</sup>

159. None of his known individual circumstances mitigates the seriousness of his crimes.

**(E) AGGRAVATING CIRCUMSTANCES**

160. The Prosecution submits that there are significant aggravating circumstances in Kondewa's case.

161. Many of the victims of the crimes were vulnerable civilians, including young children.<sup>258</sup>

162. This Trial Chamber has held Kondewa criminally liable for enlisting children under the age of 15 into an armed force or group.<sup>259</sup> Kondewa initiated a number of children into the CDF organization and as this Trial Chamber has noted with respect to TF2-021, "Kondewa knew or had reason to know that the boy was under fifteen years of age, and too young to be enlisted for military service."<sup>260</sup> The Prosecution submits that the commission of this crime is particularly aggravating because of the impact on the lives of those children who were enlisted. The victims of this crime, for which Kondewa has been held criminally liable, were in large part the children themselves as they were separated from their families and forced to commit violent acts. The effects will last a lifetime as these children will rarely reach their potential, in terms of education and career development.<sup>261</sup> Kondewa's sentence must reflect the fact that it is not only the Prosecution, but the international community as a whole, that considers this crime particularly appalling.

163. Also aggravating, is the fact that Kondewa had authority and control over such Kamajors as Morie Jusu Kamara, Julius Squire and Kamajor Baigeh<sup>262</sup> but he did nothing to prevent the commission of criminal acts nor did he punish his subordinates

<sup>257</sup> Exhibit P112: Description of Title, Position and Authority of Allieu Kondewa, CDF Calendar.

<sup>258</sup> Trial Chamber's Judgement, para. 970.

<sup>259</sup> Trial Chamber's Judgement, para. 971.

<sup>260</sup> Trial Chamber's Judgement, para. 970.

<sup>261</sup> See Annex F.

<sup>262</sup> Trial Chamber's Judgement, para. 868.

once he became aware of the criminal acts they had committed.<sup>263</sup> Kondewa was aware of the atrocities committed by the Kamajors.<sup>264</sup>

164. Kondewa's failure to take the necessary steps to discharge his duty to prevent or punish crimes by his subordinates who were deliberately targeting civilians during attacks on undefended civilian villages shows a total disregard for the sanctity of human life and dignity which must be regarded as a significant aggravating factor.
165. Kondewa not only failed to punish his subordinates for looting in Moyamba, but he consciously chose to support their actions and benefit from their criminal activities. For instance, Kondewa, himself, used the vehicle looted from TF2-073.<sup>265</sup>
166. Kondewa was in a position of power and authority, he was a member of the War Council and he was respected by Kamajors throughout Sierra Leone. It is particularly aggravating when someone, such as Kondewa, who holds such a high position of authority, abuses it by committing horrific crimes against innocent civilians.
167. The Prosecution submits that the case of Kondewa is clearly one in which his ongoing failure as a superior to exercise his duties to prevent or punish, with its implicit effect of encouraging subordinates to believe that they can commit further crimes with impunity, led to the crimes being committed on the scale that they were. The Prosecution submits that the Article 6(3) liability alone, considered in isolation, would merit a heavier sentence than the subordinates who were the direct perpetrators of the crimes.<sup>266</sup>

**(F) MITIGATING CIRCUMSTANCES**

168. The Prosecution submits that there are no mitigating circumstances in Kondewa's case. In particular, for purposes of the application of Rule 101(B)(ii), he has not, at any time, co-operated in any way with the Prosecution.
169. There is no evidence that Kondewa committed his crimes under duress, or that he was not a voluntary or willing perpetrator of the crimes. Indeed, he was a prime mover of their commission.

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<sup>263</sup> Trial Chamber's Judgement, para. 880.

<sup>264</sup> Trial Chamber's Judgement, para. 876.

<sup>265</sup> Trial Chamber's Judgement, para. 954.

<sup>266</sup> See paragraph 49 above.

170. The Prosecution refers to paragraph 130 and submits that the fact that Kondewa does not have any prior convictions must be given very little, if any weight as a mitigating factor. At any rate such mitigation which may be given would be far out weighed by the gravity of the crimes for which Kondewa has been convicted.
171. The Prosecution refers to paragraph 134 and notes that Kondewa's lack of formal education cannot be considered in mitigation. The Trial Chamber will recall the evidence of TF2-201 who testified that Kondewa once stated "[w]hen people say war, you say book...it's not the book that fires the war; it's the man that fires the war".<sup>267</sup>
172. The Prosecution refers to paragraphs 72-77 and 135-136 on the issue restoration of democracy as a mitigating factor.
173. Kondewa has never expressed remorse for his crimes.

## VI. GENERAL SUBMISSIONS ON SENTENCING IN THIS CASE

### (A) THE POSSIBILITY OF IMPOSING A SINGLE, GLOBAL SENTENCE ON AN ACCUSED

174. Rule 101(C) provides that "The Trial Chamber shall indicate whether multiple sentences shall be served consecutively or concurrently". It is thus open to the Trial Chamber to impose separate sentences on a convicted person in respect of each of the crimes for which that person has been convicted, and then to order that the various sentences are to run concurrently, consecutively or both.<sup>268</sup> However, as the common practice of the ICTY and ICTR demonstrates, it is also open to the Trial Chamber, in its discretion, to impose one single, global sentence on a convicted person for all of the various crimes for which that person has been convicted.<sup>269</sup>
175. The Trial Chamber has the discretion to impose a single, global sentence, or multiple consecutive or concurrent sentences. In either case the governing criterion is that the final or aggregate sentence should reflect the totality of the culpable conduct (the "totality" principle), or generally, that it should reflect the gravity of the offences and the overall culpability of the offender so that it is both just and appropriate.<sup>270</sup>

<sup>267</sup> Trial Chamber's Judgement, para. 306; TF2-201, Transcript 4 November 2004, Closed Session, p. 95 (lines 12-19).

<sup>268</sup> *Čelebići* Appeal Judgement, para. 429; *Blaškić* Appeal Judgement, para. 717.

<sup>269</sup> Trial Chamber II held that it was appropriate to impose a global sentence for multiple convictions: *Brima* Sentencing Judgement, para. 12.

<sup>270</sup> *Čelebići* Appeal Judgement, paras 429-430.

176. Consistent with the common recent practice of the ICTY and ICTR, the Prosecution submits that in this case it would be appropriate for the Trial Chamber to impose on each Accused a single, global sentence in respect of all of the crimes of which the Accused has been convicted. The Prosecution submits that the practice of imposing separate sentences in respect of each crime, and then ordering that they be served either consecutively or concurrently, makes it more difficult to ensure that the sentence ultimately served will reflect the overall totality of the convicted person's culpability.
177. As a general principle, a person who is convicted of many crimes should, in practice, serve a longer sentence than a person in like circumstances who commits only one of those crimes.<sup>271</sup> If a single crime merited a sentence of say, 20 years' imprisonment, then a person who commits ten such crimes should not be sentenced to ten terms of 20 years' imprisonment to be served concurrently, as in practice this would mean that the person would serve the same sentence that he or she would have served if only one of those crimes had been committed. On the other hand, to order that the ten sentences be served consecutively, so that the convicted person would be sentenced to 200 years' imprisonment, might well be considered by the Trial Chamber to be excessive. The imposition of a single, global sentence in respect of all ten crimes would, on the other hand, give the Trial Chamber complete flexibility in determining an actual sentence which it, in its discretion, considers appropriate to the overall criminal culpability of the convicted person.
178. In the event that the Trial Chamber chose not to impose one global sentence and instead decided to impose separate sentences for each crime for which the Accused was convicted, it is the submission of the Prosecution that the Trial Chamber should order each sentence for each crime for which the Accused is convicted to run consecutively. This would ensure that the overall sentence to be served by the Accused would adequately reflect the gravity of the totality of the crimes committed.

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<sup>271</sup> Ibid., para. 770.

**(B) THE REQUIREMENT THAT THE SENTENCE MUST BE FOR A SPECIFIED NUMBER OF YEARS**

179. Article 19(1) of the Statute of the Special Court for Sierra Leone (“**Statute**”) provides that “The Trial Chamber shall impose upon a convicted person, other than a juvenile offender, imprisonment for a specified number of years”. The Statute thus excludes other forms of punishment such as the death sentence or a fine.<sup>272</sup>
180. Unlike the case of the ICTY and ICTR, the Statute and Rules of the Special Court do not in terms confer upon the Trial Chamber the power to sentence a convicted person to imprisonment “for a term up to and including the remainder of the convicted person’s life”.<sup>273</sup> Rather, the Statute of the Special Court requires the Trial Chamber to impose a sentence of imprisonment “for a specified number of years”.<sup>274</sup> The Prosecution submits that it is not open to the Trial Chamber to impose a sentence of imprisonment “for the remainder of the convicted person’s life”,<sup>275</sup> and that the sentence imposed in this case must specify a fixed number of years of imprisonment.

**(C) CREDIT FOR TIME SERVED**

181. Pursuant to Rule 101(D) “Any period during which the convicted person was detained in custody pending his transfer to the Special Court or pending trial or appeal, shall be taken into consideration on sentencing”. To give effect to this provision, it is submitted that the Trial Chamber should order that each Accused is entitled to credit for periods spent in the Detention Facility of the Special Court to date, together with such additional time he may spend in the Detention Facility (including any time pending the determination of any appeal) prior to his transfer to the authorities of the State in which he is to serve his sentence.
182. Rule 101(B)(vii) is not applicable as no penalty has been imposed by a court of any State on any of the Accused for the same act for which he has been convicted in this case, as referred to in Article 9(3) of the Statute.

<sup>272</sup> *Kambanda* Trial Judgement, para. 10; *Rutaganda*, Trial Judgement, para. 448.

<sup>273</sup> Rules of Procedure and Evidence of the ICTY (“**RPE**”), Rule 101(A); RPE of the ICTR, Rule 101(A).

<sup>274</sup> Statute, Article 19(1).

<sup>275</sup> Compare, in the case of the ICTY and ICTR, *Prosecutor v. Jelisić*, IT-95-10-A, “Judgement”, Appeals Chamber, 5 July 2001, para. 100; *Furundžija* Appeal Judgement, para. 250; *Kayishema* Sentencing Order, para. 31.



**VII. FINAL SUBMISSION**

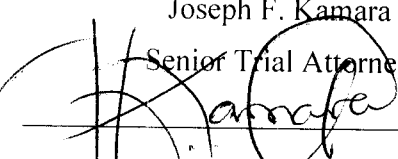
183. For all of the reasons above, the Prosecution submits that:

- 1) the appropriate sentence to be imposed on Fofana would be imprisonment for 30 years; and
- 2) the appropriate sentence to be imposed on Kondewa would be imprisonment for 30 years.

Filed in Freetown,

24 August 2007

For the Prosecution,

<p>Joseph F. Kamara Senior Trial Attorney</p>  <p><u>24/8/07</u></p>	
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## INDEX OF AUTHORITIES

### SCSL:

1. *Prosecutor v. Fofana, Kondewa*, SCSL-2004-14-785, “Trial Judgment”, Trial Chamber, 2 August 2007.
2. *Prosecutor v. Brima, Kamara, Kanu*, SCSL-2004-16-613, “Trial Judgement”, Trial Chamber, 20 June 2007.
3. *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-624, “Sentencing Judgement”, Trial Chamber, 19 July 2007
4. *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T, Status Conference Transcript, 20 March 2007

### ICTR:

5. *Prosecutor v. Kambanda*, ICTR-97-23-S, “Judgement and Sentence”, Trial Chamber, 4 September 1998.  
<http://69.94.11.53/ENGLISH/cases/Kambanda/judgement/kambanda.html>
6. *Prosecutor v. Rutaganda*, ICTR-96-3-T, “Judgement and Sentence”, Trial Chamber, 6 December 1999.  
<http://69.94.11.53/ENGLISH/cases/Rutaganda/judgement/index.htm>
7. *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-T, “Judgement – Sentencing Order”, Trial Chamber, 21 May 1999.  
<http://69.94.11.53/ENGLISH/cases/KayRuz/judgement/sentence.htm>
8. *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-A, “Judgement (Reasons)”, Appeals Chamber, 1 June 2001.  
<http://69.94.11.53/ENGLISH/cases/KayRuz/appeal/index.htm>
9. *Prosecutor v. Serushago*, ICTR-98-39-S, “Sentence”, Trial Chamber, 5 February 1999.  
<http://69.94.11.53/ENGLISH/cases/Serushago/judgement/os1.htm>
10. *Prosecutor v. Serushago*, ICTR-98-39-A, “Appeals Judgment”, Appeals Trial Chamber, 6 April 2000.  
<http://69.94.11.53/ENGLISH/cases/Serushago/decisions/app20000406.htm>
11. *Prosecutor v. Semanza*, ICTR-97-20-T, “Judgment and Sentence”, Trial Chamber, 15 May 2003.  
<http://69.94.11.53/ENGLISH/cases/Semanza/judgement/index.htm>

12. *Prosecutor v. Semanza*, ICTR-97-20-A, “Appeal Judgement”, Appeals Chamber, 20 May 2005.  
<http://69.94.11.53/ENGLISH/cases/Semanza/judgement/appealsjudgement/index.pdf>
13. *Prosecutor v. Kamuhanda*, ICTR-95-54A-T, “Judgement”, Trial Chamber, 22 January 2004.  
<http://69.94.11.53/ENGLISH/cases/Kamuhanda/judgement/220104.htm>
14. *Prosecutor v. Kamuhanda*, ICTR-95-54A-T, “Appeal Judgement”, Appeals Chamber, 19 September 2005.  
<http://69.94.11.53/ENGLISH/cases/Kamuhanda/judgement/Appeals%20Judgement/Kamuhanda190905.pdf>
15. *Prosecutor v. Nzabirinda*, ICTR-01-77-I, “Sentencing Judgement”, Trial Chamber, 23 February 2007.  
<http://69.94.11.53/ENGLISH/cases/Nzabirinda/judgement.htm>
16. *Prosecutor v. Akayesu*, ICTR-96-4-T, “Trial Judgement”, Trial Chamber, 2 September 1998.  
<http://69.94.11.53/ENGLISH/cases/Akayesu/judgement/akay001.htm>
17. *Prosecutor v. Akayesu*, ICTR-96-4-T, “Sentence”, Trial Chamber, 2 October 1998.  
<http://69.94.11.53/ENGLISH/cases/Akayesu/judgement/ak81002e.html>
18. *Prosecutor v. Akayesu*, ICTR-96-4, “Appeal Judgement”, Appeals Chamber, 1 June 2001.  
<http://69.94.11.53/ENGLISH/cases/Akayesu/judgement/Arret/index.htm>
19. *Prosecutor v. Gacumbitsi*, ICTR-2001-64-T, “Judgement”, Trial Chamber, 17 June 2004.  
<http://69.94.11.53/ENGLISH/cases/Gachumbitsi/judgement/Table%20of%20Contents.htm>
20. *Prosecutor v. Gacumbitsi*, ICTR-20001-64-A, “Appeals Judgement”, Appeals Chamber, 7 July 2006.  
[http://69.94.11.53/ENGLISH/cases/Gachumbitsi/judgement/judgement\\_appeals\\_070706.pdf](http://69.94.11.53/ENGLISH/cases/Gachumbitsi/judgement/judgement_appeals_070706.pdf)
21. *Prosecutor v. Kajelijeli*, ICTR-98-44A-T, “Trial Judgement”, Trial Chamber, 1 December 2003.  
[http://69.94.11.53/ENGLISH/cases/Kajelijeli/judgement/031201-TC2-J-ICTR-98-44A-T-JUDGEMENT%20AND%20SENTENCE-EN\\_.pdf](http://69.94.11.53/ENGLISH/cases/Kajelijeli/judgement/031201-TC2-J-ICTR-98-44A-T-JUDGEMENT%20AND%20SENTENCE-EN_.pdf)
22. *Prosecutor v. Kajelijeli*, ICTR-98-44A-A, “Judgement”, Appeals Chamber, 23 May 2005.  
<http://69.94.11.53/ENGLISH/cases/Kajelijeli/appealchamber.htm>

23. *Prosecutor v. Musema*, ICTR-9-13-A, “Judgement and Sentence”, Trial Chamber 1, 27 January 2000.  
<http://69.94.11.53/ENGLISH/cases/Musema/judgement/index.htm>
24. *Prosecutor v. Musema*, ICTR-96-13-A, “Appeals Judgment”, Appeals Chamber, 16 November 2001.  
<http://69.94.11.53/ENGLISH/cases/Musema/judgement/Arret/index.htm>
25. *Prosecutor v. Niyitegeka*, ICTR-96-14-T, “Judgement and Sentence”, Trial Chamber 1, 16 May 2003.  
<http://69.94.11.53/ENGLISH/cases/Niyitegeka/judgement/index.htm>
26. *Prosecutor v. Ntagerura*, ICTR-99-46-T, “Judgment and Sentence”, Trial Chamber III, 25 February 2004.  
<http://69.94.11.53/ENGLISH/cases/Imanishimwe/judgement/judgment-en.pdf>
27. *Prosecutor v. Ntakirutimana*, ICTR-96-10; 2: ICTR-96-17, “Judgement and Sentence”, Trial Chamber, 21 February 2003.  
<http://69.94.11.53/ENGLISH/cases/NtakirutimanaE/judgement/index.htm>
28. *Prosecutor v. Ruggiu*, ICTR-97-32-I, “Judgement and Sentence”, Trial Chamber, 1 June 2000.  
<http://69.94.11.53/ENGLISH/cases/Ruggiu/judgement/rug010600.htm>
29. *Prosecutor v. Bisengimana*, ICTR-00-60-T, “Judgement and Sentence”, Trial Chamber 2, 13 April 2006.  
<http://69.94.11.53/ENGLISH/cases/Bisengimana/judgement/060413.pdf>

#### **ICTY:**

30. *Prosecutor v. Jelisić*, IT-95-10-T, “Judgement”, Trial Chamber I, 14 December 1999.  
<http://www.un.org/icty/jelisc/trialc1/judgement/index.htm>
31. *Prosecutor v. Jelisić*, IT-95-10-A, “Judgement”, Appeals Chamber, 5 July 2001.  
<http://www.un.org/icty/jelisc/appeal/judgement/index.htm>
32. *Prosecutor v. Furundžija*, IT-95-17/1-A, “Judgement”, Appeals Chamber, 21 July 2000.  
<http://www.un.org/icty/furundzija/appeal/judgement/index.htm>
33. *Prosecutor v. Furundžija*, IT-95-17/1-T, “Judgement” Trial Chamber II, 10 December 1998.  
<http://www.un.org/icty/furundzija/trialc2/judgement/index.htm>
34. *Prosecutor v. Kupreškić et al*, IT-95-16, “Judgement”, Trial Chamber II, 14 January 2000.  
<http://www.un.org/icty/kupreskic/trialc2/judgement/index.htm>

35. *Prosecutor v. Kupreškić et al.*, IT-95-16-A, “Appeal Judgement”, Appeals Chamber, 23 October 2001.  
<http://www.un.org/icty/kupreskic/appeal/judgement/index.htm>
36. *Prosecutor v. Delalić et al. (Čelebići case)*, IT-96-21-A, “Judgement”, Appeals Chamber, 20 February 2001.  
<http://www.un.org/icty/celebici/appeal/judgement/XIV>
37. *Prosecutor v. Blaškić*, IT-95-14, “Judgement”, Trial Chamber, 3 March 2000.  
<http://www.un.org/icty/Blaškić/trialc1/judgement/index.htm>
38. *Prosecutor v. Blaškić*, IT-95-14-A, “Appeal Judgement”, Appeals Chamber, 29 July 2004.  
<http://www.un.org/icty/Blaškić/appeal/judgement/XIIB2>
39. *Prosecutor v. Kunarac* IT-96-23, “Trial Judgement”, Trial Chamber, 22 February 2001.  
<http://www.un.org/icty/kunarac/trialc2/judgement/VI>
40. *Prosecutor v. Todorović*, IT-95-9/1, “Sentencing Judgement”, Trial Chamber, 31 July 2001.  
<http://www.un.org/icty/Todorović/judgement/index.htm>
41. *Prosecutor v. Nikolić-Dragan*, IT-94-2, “Sentencing Judgement”, Trial Chamber, 18 December 2003.  
<http://www.un.org/icty/Nikolić/trialc/judgement/index.htm>
42. *Prosecutor v. Nikolić-Dragan*, IT-94-2-A, “Judgment on Sentencing Appeal”, Appeals Chamber, 4 February 2005.  
<http://www.un.org/icty/Nikolić/appeal/judgement/index.htm>
48. *Prosecutor v. Nikolić-Momir*, IT-02-60/1, “Sentencing Judgement”, Trial Chamber, 2 December 2003.  
<http://www.un.org/icty/mNikolić/trialc/judgement/index.htm>
43. *Prosecutor v. Plavšić* IT-00-39&40/1, “Sentencing Judgement”, Trial Chamber, 27 February 2003.  
<http://www.un.org/icty/Plavšić/trialc/judgement/index.htm>
44. *Prosecutor v. Brđanin*, IT-99-36-T, “Trial Judgement”, Trial Chamber, 1 September 2004.  
<http://www.un.org/icty/Brđanin/trialc/judgement/index.htm>
45. *Prosecutor v. Tadić*, IT-94-1-A and IT-94-1-Abis, “Judgement in Sentencing Appeals”, Appeals Chamber, 26 January 2000.  
[http://www.un.org/icty/tadic/appeal/judgement/index\\_2.htm](http://www.un.org/icty/tadic/appeal/judgement/index_2.htm)

46. *Prosecutor v. Jokić*, IT-01-42/1-S, “Sentencing Judgement”, Trial Chamber, 18 March 2004.  
<http://www.un.org/icty/jokic/trialc/judgement/index.htm>
47. *Prosecutor v. Deronjić*, IT-02-61, “Sentencing Judgement”, Trial Chamber, 30 March 2004.  
<http://www.un.org/icty/Deronjić/trialc/judgement/index.htm>
48. *Prosecutor v. Deronjić*, IT-02-61-A, “Appeal Judgement”, Appeals Chamber, 20 July 2005.  
<http://www.un.org/icty/Deronjić/appeal/judgement/index.htm>
49. *Prosecutor v. Erdemović*, IT-96-22, “Judgement”, Trial Chamber, 29 November 1996.  
<http://www.un.org/icty/Erdemović/trialc/judgement/erd-tsj961129e.htm>
50. *Prosecutor v. Stakić*, IT-97-24-T, “Judgement”, Trial Chamber II, 31 July 2003.  
<http://www.un.org/icty/Stakić/trialc/judgement/index.htm>
51. *Prosecutor v. Stakić*, IT-7-24-A, “Judgment”, Appeals Chamber, 22 March 2006.  
<http://www.un.org/icty/Stakić/appeal/judgement/index.htm>
52. *Prosecutor v. Aleksovski*, IT-95-14/1-A, “Judgement”, Appeals Chamber, 24 March 2000.  
<http://www.un.org/icty/aleksovski/appeal/judgement/index.htm>
53. *Prosecutor v. Babić*, IT-03-72-S, “Sentencing Judgement”, Trial Chamber I, 29 June 2004.  
<http://www.un.org/icty/Babić/trialc/judgement/index.htm>
54. *Prosecutor v. Babić*, IT-03-72-A, “Judgement”, Appeals Chamber, 18 July 2005.  
<http://www.un.org/icty/Babić/appeal/judgement/index.htm>
55. *Prosecutor v. Češić*, IT-95-10/1-S, “Sentencing Judgement”, Trial Chamber I, 11 March 2004.  
<http://www.un.org/icty/Češić/trialc/judgement/index.htm>
56. *Prosecutor v. Kordić and Čerkez*, IT-95-14/2, “Judgement”, Trial Chamber, 26 February 2001.  
<http://www.un.org/icty/Kordić/trialc/judgement/index.htm>
57. *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, “Judgement”, Appeals Chamber, 17 December 2004.  
<http://www.un.org/icty/Kordić/appeal/judgement/index.htm>
58. *Prosecutor v. Blagojević*, IT-02-60-I, “Trial Judgement”, Trial Chamber I, 17 January 2005.

<http://www.un.org/icty/Blagojević/trialc/judgement/index.htm>

59. *Prosecutor Mrdja*, IT-02-59-S, “Sentencing Judgement”, Trial Chamber I, 31 March 2004.  
<http://www.un.org/icty/mrdja/trialc/judgement/index.htm>
60. *Prosecutor v. Bralo*, IT-95-17-S, “Sentencing Judgement”, Trial Chamber, 7 December 2005.  
<http://www.un.org/icty/bralo/trialc/judgement/index.htm>
61. *Prosecutor v. Naletilić and Martinović*, IT-94-38-A, “Appeals Judgment”, Appeals Chamber, 3 May 2006.  
<http://www.un.org/icty/Naletilić/appeal/judgement/index.htm>
62. *Prosecutor v. Krstić*, IT-98-33, “Trial Judgment”, Trial Chamber, 2 August 2001.  
<http://www.un.org/icty/krstic/TrialC1/judgement/index.htm>
63. *Prosecutor v. Sikirica*, IT-95-8, “Sentencing Judgment”, Trial Chamber, 13 November 2001.  
[http://www.un.org/icty/sikirica/judgement/index\\_2.htm](http://www.un.org/icty/sikirica/judgement/index_2.htm)
64. *Prosecutor v. Kvočka*, IT-98-30/1, “Appeals Judgment”, Appeals Chamber, 28 February 2005.  
<http://www.un.org/icty/Kvočka/appeal/judgement/index.htm>
65. *Prosecutor v. Banović*, IT-02-65/1, “Trial Judgment”, Trial Chamber, 28 October 2003.  
<http://www.un.org/icty/Banović65-1/trialc/judgement/ban-sj031028e.htm>
66. *Prosecutor v. Obrenović*, IT-02-60/2, “Trial Judgment”, Trial Chamber I, 10 December 2003.  
<http://www.un.org/icty/obrenovic/trialc/judgement/index.htm>

#### **SIERRA LEONEAN CASES:**

67. *State v. Julius Pratt*, 17 November 2005. (Case attached in Annex C.)
68. *State v. Vandi Johnson*; (Case attached in Annex C.)
69. *State vs. Tommy M'Bayoh & 3 Others*, (Case attached in Annex C.)
70. *State v. Aiah Musa Mommoni*, High Court of Sierra Leone, 3 June 2004 (Case attached in Annex C.)
71. *State v. Hassan Mahoi*, High Court of Sierra Leone, 8 November 2005 (Case attached in Annex C.)

72. *State v. Amadu Macaully et. al.* (Case attached in Annex C.)

**OTHER:**

73. ICTY Rules of Procedure and Evidence.  
<http://www.un.org/icty/legaldoc-e/basic/rpe/IT032Rev39e.pdf>
74. ICTR Rules of Procedure and Evidence.  
<http://69.94.11.53/ENGLISH/rules/101106/rop101106.pdf>
75. Rome Statute of International Criminal Court.  
[http://www.icc-cpi.int/library/about/officialjournal/Rome\\_Statute\\_120704-EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf)
76. Human Rights Watch, “Genocide War Crimes, Crimes Against Humanity: A Topical Digest of the Case Law of the International Criminal Tribunal of the Former Yugoslavia”, 2006.
77. Bankole Thompson, “The Criminal Law of Sierra Leone”, University Press of America 1999.
78. BBC News, “Huntley should die behind bars”, 18 March 2007  
[http://news.bbc.co.uk/2/hi/uk\\_news/6463337.stm](http://news.bbc.co.uk/2/hi/uk_news/6463337.stm)
79. Archbold, “Criminal Pleading Evidence and Practice” (Sweet and Maxwell 35<sup>th</sup> edn 1962), at pp.4301 to 4332.
80. François Bugnion, “Jus Ad Bellum, Jus in Bello and Non-International Armed Conflict”, 28 October 2004.  
[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/francois-bugnion-article-150306/\\$File/jus%20ad%20bellum.%20jus%20in%20bello%20and%20non-international%20armed%20conflictsANG.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/francois-bugnion-article-150306/$File/jus%20ad%20bellum.%20jus%20in%20bello%20and%20non-international%20armed%20conflictsANG.pdf)
81. Protocol I to the 1949 Geneva Conventions  
<http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument>
82. Statement by President of the ICRC, “International law remains one of the strongest tools”, Geneva, 18 March 2003.  
<http://www.icrc.org/Web/Eng/siteeng0.nsf/html/5KTBKK>
83. Martin C. Ortega, “The ILC Adopts the Draft Code of Crimes Against the Peace and Security of Mankind”, (1997) 1 *Max Planck Yearbook of United Nations Law* 283.  
[http://www.mpil.de/shared/data/pdf/pdfmpunyb/ortega\\_1.pdf](http://www.mpil.de/shared/data/pdf/pdfmpunyb/ortega_1.pdf)



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**LEGISLATION OF SIERRA LEONE:**

84. *Prevention of Cruelty to Children Act*, Cap 31 of the Laws of Sierra Leone 1960.

85. *Offences Against the Person Act*, 1861.

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**APPENDIX**

**Accused's Criminal Responsibility**

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Crimebase	Date	Indictment	Factual Findings	Fofana		Kondewa	
				6.1	6.3	6.1	6.3
Tongo Field	late Nov. 1997- Jan. 1998	24(a), 25(a), 26(a), 26(b), 27, 28	1 <sup>st</sup> Attack: 376-382; 2 <sup>nd</sup> Attack: 383-388; 3 <sup>rd</sup> Attack: 389- 403;403-410	6.1 YES (2,4,7)	6.3 NO	6.1 YES (2,4,7)	6.3 NO
Koribundo	July 1997-Feb 1998	24(c), 25(d), 26(b), 27, 28	417 - 437	6.1 NO	6.3 YES (2, 4, 7)	6.1 NO	6.3 NO
Bo	Feb 1998 – June 1998	24(c), 25(d), 26(b), 27, 28	<i>Kebi Town Attack:</i> 442-448-533	6.1 NO	6.3 YES (2,4,7)	6.1 NO	6.3 NO
Bonthe District	Feb 1998- March 1998	24(e), 25(f), 26(b), 27, 28	<i>Bonthe Crimes:</i> 539- 554; <i>Freetown Trip:</i> 555- 557 <i>Other Crimes in District:</i> 558-565 571-618	6.1 NO	6.3 NO	6.1 NO	6.3 YES (2,4,5,7)
Kenema	Feb 1998	24(b), 25(b), 25(c), 26(a), 26(b), 27, 28		6.1 NO	6.3 NO	6.1 NO	6.3 NO
Talia/Base Zero	Oct 1997-Dec 1999	24(e), 25(f), 27, 28	619-635	6.1 NO	6.3 NO	6.1 YES (2)	6.3 not discussed

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Moyamba District	June 1997-June 1998	24(d), 25(e), 26(b), 27, 28	639-640; <i>Sembehun</i> : 641-649; <i>Shenge</i> : 650; <i>Ronkonta</i> : 651-653; <i>Bradford</i> : 654-665; <i>Kongonani</i> : 666	6.1 NO	6.3 NO	6.1 NO	6.3 YES (5)
Child Soldiers	Various	29	667-689	6.1 NO	6.3 NO	6.1 YES (8)	6.3 NO (no findings made because of 6.1 guilt)

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**ANNEX A**

**ICTR Sentencing Chart**

**ICTR Sentencing Chart**

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Akayesu, Jean-Paul	Bourgmaster of Taba Commune, Prefecture of Gitarma, in Rwanda	<ol style="list-style-type: none"> <li>1. Genocide;</li> <li>2. Direct and public incitement to commit genocide;</li> <li>3. Crime against humanity-extermination;</li> <li>4. Crime against humanity-murder (3 counts);</li> <li>5. Crime against humanity-torture;</li> <li>6. Crime against humanity-rape;</li> <li>7. Crime against humanity-other inhumane acts.</li> </ol> <p>2 October 1998</p>	<ol style="list-style-type: none"> <li>1. Life imprisonment (TC)</li> <li>2. Life imprisonment (TC)</li> <li>3. Life imprisonment (TC)</li> <li>4. 15 years (for each count) (TC)</li> <li>5. 10 years (TC)</li> <li>6. 15 years (TC)</li> <li>7. 10 years (TC)</li> </ol>	Concurrent	<ol style="list-style-type: none"> <li>1. Position of authority and duty to protect population and ensure security;</li> <li>2. Betrayal of confidence of the people and use of municipal police under his responsibility to commit crimes;</li> <li>3. Motivated by genocide and acted with premeditation;</li> <li>4. Criminal conduct was sustained and lasted for almost three months.</li> </ol>	<ol style="list-style-type: none"> <li>1. Opposition to the killings, risked his own life to protect the population;</li> <li>2. Only had 8 communal policemen at his disposal and compared to others he had limited powers and resources;</li> <li>3. Cooperated with the Prosecutor and Tribunal in that he was available, disciplined and never obstructed or attempted to evade the judicial process;</li> <li>4. Public expression of sympathy for the victims and regret that he was not able to live up to his duty to protect;</li> <li>5. Up to April 1994, he made efforts to prevent massacres.</li> </ol>	<p><u>Aggravating</u></p> <ol style="list-style-type: none"> <li>1. Consciously chose to participate in government killings;</li> <li>2. Most senior governmental minister in the area;</li> <li>3. Incited and supported crimes through his presence.</li> </ol> <p><u>Mitigating</u></p> <ol style="list-style-type: none"> <li>1. Father of five children;</li> <li>2. Not a very high official in the government.</li> </ol>
Barayagwiza, Jean Bosco	Founder of RTML radio station, director of political affairs	<ol style="list-style-type: none"> <li>1. Conspiracy to commit genocide;</li> <li>2. Genocide;</li> <li>3. Direct and</li> </ol>	<ol style="list-style-type: none"> <li>Life imprisonment (TC)</li> <li>35 years (AC)</li> </ol>	Single sentence			

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Bisengimana, Paul	Bourgmestre	public incitement to commit genocide; 4. Crime against humanity-extermination; 5. Crime against humanity-persecution. December 3, 2003 1. Crime against humanity-extermination. 13 April 2006	1.15 years (TC)	Single sentence	1. The gravity and heinous nature of extermination and murder as crimes against humanity and their absolute prohibition render their commission inherently aggravating; 2. The magnitude of the crimes; 3. The official position of the Accused as bourgmestre and his duty and authority to protect the population, prevent or punish illegal acts. This position meant he was under a duty to uphold a higher degree of morality than is usually demanded;	1. Guilty plea and publicly expressed remorse; 2. Personal and family situation (he is married with 10 children; his social, professional and family background); 3. Good character before 1994; 4. Assistance given to victims; 5. Lack of prior criminal convictions and good conduct in detention; 6. Ill health (diabetes and hepatitis B) and age (57);	<u>Aggravating</u> 1. Participation in aiding and abetting; 2. Official position of the accused.  <u>Mitigating</u> 1. Guilty plea; 2. Personal and family situation; 3. Good character; 4. Good conduct in detention; 5. Ill health and age.

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Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Gachumbitsi, Sylvestre	Bourgmeister	1. Genocide; 2. Crime against humanity-extermination; 3. Crime against humanity-rape. 17 June 2004	30 years (TC) Life (AC)	Single sentence	4. His education enabled him to be aware of the value of human life and the need for a peaceful co-existence between communities; 5. He took no active steps to protect but instead stood aside and watched. 1. Gravity of the crimes; 2. Scale of crimes; 3. Accused was at the centre of events that took place in the commune, planning, incitement and giving orders to commit crimes; 4. Crimes were pre-meditated, the result of elaborate planning; 5. The Accused's position as bourgmestre, he failed in his duties, he did not protect people, he did not disassociate himself from government genocidal policies; 6. Participated in crimes voluntarily; 7. Crimes were committed methodically and the Accused played a role in that regard;	7. Lack of personal participation in offences.  1. Some Tutsi were saved because of the Accused's intervention; 2. His family situation; 3. No prior criminal record; 4. Good reputation; 5. He was an exemplary bourgmestre, had Tutsi friends and the peace in Rusumo in the week following the attack is evidence of the type of bourgmestre he was; 6. People from neighbouring communes took refuge in Rusumo and when disturbances were reported, he had the perpetrators arrested.	<b>Aggravating</b> 1. Position of authority; 2. Seriousness of the crimes.  <b>Mitigating</b> 1. Good conduct prior to crimes; 2. Not involved over long period of time.

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Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Imanishimwe, Samuel	Lieutenant in Far	1. Genocide; 2. Crime against humanity-extermination; 3. Crime against humanity-murder; 4. Crime against humanity-imprisonment; 5. Crime against humanity-torture; 6. Violation of laws/customs of war-cruel treatment. 15 February 2004	1. 15 years (TC) 2. 15 years (TC) 3. 10 years (TC) 4. 3 years (TC) 5. 10 years (TC) 6. 12 years (TC)	Consecutive and concurrent (total of 27 years)	8. Accused never punished perpetrators nor prevented their commission; 9. Accused had superior responsibility for the crimes committed. 1. The Accused was a commander and abused his position as a trained military officer; 2. He was in a position to exert effective control over the soldiers under his command because he was respected by his subordinates; 3. He could have prevented crimes, but instead he aided and abetted.	1. Background	Aggravating 1. Role as a commander of a military camp.
Kajelijeli, Juvenal	Bourgmestre of Mukingo commune	1. Genocide; 2. Direct and public incitement to commit genocide;	1. Life imprisonment (TC) 2. 15 years (TC) 3. Life	Concurrent	1. Genocide constitutes the "crime of crimes"; 2. The crimes were heinous; 3. He was central in organizing hundreds of	1. Tutsi witnesses testified that they owed their lives to Kajelijeli; 2. He sheltered Tutsis at the home of his	Aggravating 1. Considerable influence as a bridge between the military and civilian spheres; 2. Saw that the weapons were provided;

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Kambanda, Jean	Prime Minister	3. Crime against humanity- extermination. 1 December 2003	imprisonment (TC)		perpetrators to murder defenceless civilian Tutsis; 4. He was a leader of the Interahamwe; 5. He was a former public officer and was a prominent figure within the community; 6. As a civic leader and member of the government's territorial administration he was duty bound to uphold public order and he failed; 7. He failed to renounce, prevent or punish the crimes around him; 8. He showed no remorse.	second wife; 3. Assisted in the evacuation of a Tutsi family.	3. He directed and participated in the killings.  <u>Mitigating</u> 1. Assistance in evacuation of Tutsi family (AC).
		1. Genocide; 2. Conspiracy to commit genocide; 3. Direct and public incitement to commit genocide; 4. Complicity to genocide; 5. Crime against humanity- murder;	Life imprisonment (TC)	Single sentence	1. The heinous nature of the crime of genocide makes its commission inherently aggravating; 2. The magnitude of the crimes (killing 500,00 within 100 days); 3. The Accused was Prime Minister and he and his government were responsible for maintaining peace and security; 4. The Accused abused	1. Guilty plea; 2. Remorse; 3. Cooperation with the Prosecutor's office; 4. The Accused was only a "puppet controlled by certain military authorities and his power was consequently limited"; 5. Prosecution agreed that substantial cooperation and invaluable	<u>Aggravating</u> 1. Intrinsic gravity of the crimes 2. Accused committed the crimes knowingly and with premeditation 3. Was entrusted with duty and authority to protect as Prime Minister  <u>Mitigating</u> 1. Cooperation 2. Guilty

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
		6. Crime against humanity-extermination. 4 September 1998			his position of authority and the trust of the civilian population; 5. Personally participated by distributing arms, making speeches, presiding over cabinet and meetings; 6. Failed to take necessary measures to prevent subordinates from committing crimes.	information, as well as future cooperation when the Accused testifies in other trials, is a significant mitigating factor.	
Kamuhanda, Jean de Dieu	Minister for Culture and Education	1. Genocide; 2. Crime against humanity-extermination. 22 January 2004	1. Life imprisonment (TC) 2. Life imprisonment (TC)	Concurrent	1. Top civil servant (Minister in Charge of the Ministry of Higher Education and Scientific Research) and prominent figure within society; 2. Popular and renowned; 3. His high position placed him under a duty to espouse the principles laid out in the constitution and to uphold a higher degree of morality; instead he supported genocide.		<u>Aggravating</u> 1. High position accused held as a civil servant; 2. Accused was respectful; 3. Accused instigated and led an attack to kill people sheltered at a church.
Kayishema, Clement	Prefect	1. Genocide (4 separate counts) 21 May 1999	1. Life (for each count of genocide) (TC)	Concurrent	1. Disregard of his obligation to protect the Rwandan people and maintain peace and order and the use of his position to effectuate crimes;	1. Explosion of the rule of law in Rwanda; 2. Kayishema was overwhelmed by the events and the mob or crowd psychology;	<u>Aggravating</u> 1. Disregard of his obligation to protect the Rwandan people and maintain peace and order and the use of his position to effectuate crimes;

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Mikaeli, Muhimana	Consciller of Gishyita Secteur	1. Genocide; 2. Crime against humanity-rape; 3. Crime against humanity-murder. April 28, 2005	1. Life imprisonment (TC) 2. Life imprisonment (TC) 3. Life imprisonment (TC)	Concurrent	2. Zeal with which he executed his crimes; 3. Methodical and systematic execution of crimes; 4. Behavior after the criminal act, notably his inaction to punish the perpetrators.  1. Status; 2. Zeal; 3. Effect on the lives of victims.	3. He is a loyal and honest person.	2. Zeal with which he executed his crimes; 3. Methodical and systematic execution of crimes; 4. Behavior after the criminal act, notably his inaction to punish the perpetrators; 5. Voluntarily committed and participated in the offence; 6. Harm suffered by victims and their families.  <u>Aggravating</u> 1. Position of influence; 2. Participated in attacks on civilians seeking refuge; 3. Victim under 16 years of age; 4. Accused assisted by others to commit crime; 5. Crime caused serious harm to the victim's health; 6. Degrading manner of crimes.
Musema, Alfred	Director of Tea Factory in Gisovu	1. Genocide; 2. Crime against humanity-extermination. 27 January 2000	Life (TC)	Single sentence	1. Was known in society; criminal participation extended to all levels 2. Was committed to genocidal program and seized the occasion to promote personal ambitions; 3. Abused his position as Director by diverting	1. Deeply regrets that factory facilities were used by perpetrators and he was unable to prevent this; 2. Publicly admitted the genocide and expressed his distress about the deaths of so many innocent people;	<u>Aggravating</u> 1. Offences are extremely serious; 2. Led the attackers and took no steps to prevent attacks; 3. Position of power.  <u>Mitigation</u> 1. Expressed distress about deaths of innocent people;

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Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Muvunyi, Tharcisse	Lieutenant- Colonel in army	1. Genocide; 2. Direct and public incitement to commit genocide; 3. Crime against humanity-other inhumane acts.  September 12, 2006	25 years (TC)		workers and property to further unlawful acts; 4. The way the crimes were committed; 5. Did nothing to punish the perpetrators and was one of the main perpetrators; 6. Lied before the Chamber when dealing with defence of alibi; 7. Showed no remorse with respect to the role he played.  1. Inherently grave offenses; 2. Duty to protect civilians; 3. Abused position of power; 4. Incited the population to commit crimes.	3. Cooperated with the Prosecutor by admitting facts.	2. Admitted facts.
Nahimana, Ferdinand	Owner of radio station	1. Conspiracy to commit genocide; 2. Genocide; 3. Direct and public incitement to	Life (TC)	Single sentence		1. Good moral character	<u>Aggravating</u> 1. Leader of the community; 2. Killing of orphan children; 3. Chastised a bourgmestre for hiding a Tutsi man.  <u>Mitigating</u> 1. Good character.
				Single sentence			<u>Aggravating</u> 1. Position of influence.

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Ndindabahizi, Emmanuel	Minister of Finance	commit genocide; 4. Crime against humanity-persecution; 5. Crime against humanity-extermination. December 3, 2003	Life imprisonment (TC)	Single sentence	1. Involvement of the population in the commission of crimes.		Aggravating 1. Trust of population in this official; 2. Supported genocide as government official; 3. Actively influenced others to commit crimes.
Hassan Ngeze	Editor-in-Chief of newspaper <i>Kangura</i>	1. Conspiracy to commit genocide; 2. Genocide; 3. Direct and public incitement to commit genocide; 4. Crime against humanity-persecution; 5. Crime against humanity-extermination.	Life imprisonment (TC)	Single sentence			Aggravating 1. Abuse of position of trust.

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Nyitegeka, Eliezer	Minister of Information	December 3, 2003 1. Genocide; 2. Conspiracy to commit genocide; 3. Direct and public incitement to commit genocide; 4. Crime against humanity-murder; 5. Crime against humanity-extermination; 6. Crime against humanity-other inhumane acts.	Life imprisonment (TC)	Single sentence	1. Was a well-known person and was Minister of Information; 2. As such he was under an obligation to espouse principles laid down in the Constitution and uphold a degree of morality and instead he supported the campaign against Tutsis and actively engaged in killing and inciting others to kill.	1. The trial was completed in record time due to the cooperation of the Accused; 2. Has a wife, children and grandchildren.	<u>Aggravating</u> 1. Well-known individual who abused his trust; 2. Held an official position; 3. Callous nature of the murders; 4. Prolonged nature of participation in attacks against civilians. <u>Mitigating</u> 1. Cooperation with the prosecution.
Ntakirutimana, Elizaphan	Pastor (7 <sup>th</sup> Day Adventist)	16 May 2003 1. Genocide; 2. Crime against humanity-extermination. 21 February 2003	10 years (TC)	Single sentence	1. Was the overall head of the Mugonero complex and was respected as an intermediary between the people and God; 2. Personally ferried attackers into the complex and fled Rwanda and failed to perform burials or hold a	1. Good character; 2. Life's work was dedicated to saving souls, healing and saving lives; 3. Not in a position to prevent the massacres.	<u>Aggravating</u> 1. He wielded the authority and abused the trust; 2. Failed to protect persons in his care; 3. Associated with attackers and approved of their activities; 4. Association with place considered a safe haven.



Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Ntakirutimana, Gerard	Medical doctor	1. Genocide; 2. Crime against humanity-murder; 3. Crime against humanity-extermiation. 21 February 2003	25 Years (TC)	Single sentence	remembrance service.  1. Was <i>de facto</i> head of Mugonero Hospital; 2. Was a respected person in the community; 3. Took part in meeting to plan the attack; 4. Procured weapons for the attack; 5. Personally took part in the attack; 6. Fled Rwanda after the attacks and failed to perform burials or hold a remembrance service.	1. 44 years old, married with 3 children; 2. Did not show ethnic bias before 1994; 3. Returned to Rwanda in 1993 to contribute to development and promote peace; 4. He provided shelter for some Tutsis.	<u>Mitigating</u> 1. A person of good character; 2. Family situation; 3. Did not play a leading role in the attacks nor personally participated in the killings; 4. Age and ill health.  <u>Aggravating</u> 1. Prior role as a doctor; 2. Abused the trust placed in him; 3. Led attackers to Tutsi refugees; 4. Committed crimes with zeal over lengthy period of time.
Nzabirinda, Joseph	Managing Director of SECOBE	1. Crime against humanity-murder.	7 years (TC)	Single sentence	1. Presence of accused at murders as an approving spectator.	1. Remorse; 2. Cooperation with prosecution; 3. Assisting Tutsis; 4. Family situation; 5. Lack of personal participation; 6. Attitude towards Tutsis; 7. Circumstances of necessity.	<u>Aggravating</u> 1. Abuse of influence.  <u>Mitigating</u> 1. Remorse; 2. Assisting Tutsis; 3. Family situation; 4. No history of discrimination.

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Ruggiu, Georges	Journalist, RTML	1. Direct and public incitement to commit genocide; 2. Crime against humanity-persecution.	1. 12 years (TC) 2. 12 years (TC)	Concurrent			<p><u>Aggravating</u></p> <ol style="list-style-type: none"> <li>The gravity of the offence (genocide and CAH are inherently aggravating because they are heinous in nature);</li> <li>The role of the Accused in the commission of the offences in that through his radio broadcasts he played a crucial role in the incitement of ethnic hatred and violence which led to the massacres. He knew that the broadcasts were inciting violence and yet chose to continue.</li> </ol> <p><u>Mitigating</u></p> <ol style="list-style-type: none"> <li>Guilty plea;</li> <li>Cooperation with the Prosecutor;</li> <li>Absence of a criminal record.</li> </ol>
Rutaganda, Georges	Businessman & 2nd V.P. of Interhamwe	1. Genocide; 2. Crime against humanity-extermination; 3. Crime against humanity-murder.  26 May 2006	Life (TC)	Single sentence	<ol style="list-style-type: none"> <li>Was known in society as the second vice-president of the Interhamwe, he was also a rich business man;</li> <li>His criminal participation extended to all levels, he killed and he incited others to kill;</li> <li>He ordered the Interhamwe to kill</li> </ol>	<ol style="list-style-type: none"> <li>Expression of sorrow over what happened in Rwanda;</li> <li>Ill health.</li> </ol>	<p><u>Aggravating</u></p> <ol style="list-style-type: none"> <li>Gravity of the offence;</li> <li>Abused role of high position;</li> <li>Important role of the execution of the crimes.</li> </ol> <p><u>Mitigating</u></p> <ol style="list-style-type: none"> <li>Helped save some people;</li> <li>Poor health.</li> </ol>

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Rutaganira. Vincent	Councillor of Mubuga. Gishyita Commune	1. Crime against humanity- extermination. 14 March 2005	6 years (TC)	Single sentence	victims with various blunt objects and had complete disregard for the suffering of individual victims; 4. He failed to punish the perpetrators. 1. Prominent member of his community; 2. High level of education.	1. Voluntarily surrendered to Tribunal; 2. Former good relations with Tutsi; 3. Good behavior in detention; 4. Ill health.	<u>Aggravating</u> 1. Crime consisted of killing women and children in church.  <u>Mitigating</u> 1. Voluntary surrender; 2. Former good relations with Tutsi; 3. Good behavior in detention; 4. Ill health; 5. Remorse; 6. Assistance to certain victims; 7. Guilty plea.
Ruzindana. Obed	Businessman in Kigali	1. Genocide. 21 May 1999	1.25 years (TC)	Single sentence	1. Behaviour after the criminal act; 2. The accused smiled or laughed when survivors testified.		<u>Aggravating</u> 1. Voluntarily committed and participated in the offence; 2. Heinous means by which the accused committed the killings.  <u>Mitigating</u> 1. The fact that the accused was not a <i>de jure</i> official.
Semanza. Laurent	Bourgestre of Bicumbi	1. Genocide; 2. Crime against humanity-	1. 15 years (TC) 2. 15 years	Concurrent and Consecutive	1. Number of victims was very high; 2. Defence was conducted	1. Accused's detention caused grave prejudice t his family;	<u>Aggravating</u> 1. Number of victims killed; 2. Influence and relative

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
		extermination; 3. Crime against humanity-rape; 4. Crime against humanity- torture; 5. Crime against humanity- murder; 6. Crime against humanity- murder.	(TC) 3. 7 years (TC) 4. 10 years (TC) 5. 10 years (TC) 6. 8 years (TC) (total of 25 years)	(total of 25 years) (TC)	in a rather abusive fashion, in particular that Defence Expert Witness perpetrated dangerous stereotypes by testifying that Tutsi culture was based on lying.	2. He was also a victim of 1994 in that he lost property and 2 of his daughters; 3. Detention has affected his health; 4. Good prior character and 20 years of development efforts prior to the genocide; 5. Low level of command.	importance of the Accused.  Mitigating 1. Prior character and accomplishments.
Seromba. Athanese	Former priest in Kivumu commune	15 May 2003 1. Genocide; 2. Crime against humanity- extermination.  13 December 2006	15 years (TC)	Single sentence			Aggravating 1. Authority as a respected Catholic priest; 2. Trust from Tutsi refugees that he abused.  Mitigating 1. Prior good reputation; 2. Relatively young; 3. Voluntary surrender.
Serugendo. Joseph	Member of the <i>Comité d'Initiative</i> , the steering committee of RTL.M, Member of the National Committee of the Interahamwe	1. Direct and public incitement to commit genocide; 2. Crime against humanity- persecution.	6 years (TC)	Single sentence	1. The innate gravity and absolute prohibition against direct and public incitement to commit genocide and persecution render their commission inherently aggravating; 2. His position and authority as a radio	1. Early guilty plea; 2. Ill health; 3. Cooperation with Prosecutor; 4. Good character; 5. No previous criminal record.	Aggravating 1. Position as a member of managerial staff of radio station; 2. Position of authority.  Mitigating 1. Guilty plea; 2. Remorse;

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Serushago Omar	Businessman and <i>Interahamwe</i> leader in Gisenyi prefecture	12 June 2006  1. Genocide; 2. Crime against humanity-extermination; 3. Crime against humanity-murder; 4. Crime against humanity-torture.  5 February 1999	15 years (TC)	Single sentence	<p>technical advisor; 3. His actions helped ensure broadcasting continued uninterrupted during this period and his actions contributed to dissemination of information resulting in the killing of hundreds of thousands.</p> <p>1. Gravity of the offence; 2. Played a leading role and was a <i>de facto</i> leader of the Interahamwe; 3. He gave orders which were followed and enjoyed a definite authority in his region; 4. Committed the crimes knowingly and willingly.</p>	<p>1. Cooperation with the Prosecutor was substantial; 2. Cooperation led to the arrest of high ranking persons; 3. Agreed to testify for the prosecution in other trials; 4. Voluntarily surrendered himself to authorities; 5. Entered a guilty plea; 6. Prior to the crimes he lived in a highly politicized milieu; 7. Never received any military training; 8. Assistance was given to some Tutsi victims; 9. Family obligations; 10. Expressed his</p>	<p>3. Cooperation with Prosecution; 4. No prior criminal record; 5. Ill health; 6. Personal circumstances.</p> <p>Court says that the exceptional circumstances in mitigation may afford him some clemency.</p>

Name	Position	Convicted of	Sentenced	Consecutive/ Concurrent	Aggravating Factors	Mitigating Factors	Judge Comments
Aloys Simba	Retired Lieutenant Colonel and former member of parliament	<ol style="list-style-type: none"> <li>1. Genocide;</li> <li>2. Crime against humanity-extermination.</li> </ol>	25 years (1C)	Single sentence		remorse.	<p><u>Aggravating</u></p> <ol style="list-style-type: none"> <li>1. Stature in Rwandan society;</li> <li>2. Number of victims.</li> </ol> <p><u>Mitigating</u></p> <ol style="list-style-type: none"> <li>1. Past political service;</li> <li>2. Family situation.</li> </ol>

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**ANNEX B**

**ICTY Sentencing Chart**

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**ICTY Sentencing Chart**

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Aleksovski, Zlatko	Commander of the prison facility	1. Violation of the laws or customs of war-outrages upon personal dignity. 25 June 1999	5 years (TC) 7 years (AC)	Single sentence	1. Repeated malice.		<u>Mitigating:</u> 1. Good behavior; 2. No previous convictions; 3. Two young children.  <u>Aggravating</u> 1. Position as commander (AC).
Babic, Milan	Commander-in-chief of armed forces in Croatia	1. Crime against humanity-persecution. 29 June 2004	13 years (TC) (AC) affirms	Single sentence	1. Leadership.	1. Substantial and continued cooperation with the Prosecution; 2. Voluntary appearance before Tribunal; 3. Guilty plea; 4. Remorse; 5. Conduct subsequent to crime; 6. Family circumstances.	<u>Aggravating</u> 1. Leadership role.  <u>Mitigating</u> 1. Cooperation with Prosecution; 2. Voluntary appearance before Tribunal; 3. Guilty plea; 4. Remorse.
Bala, Haradin	Guard at prison camp	1. Violation of laws/customs of war-torture; 2. Violation of laws/customs of war-cruel treatment; 3. Violation of	13 years (TC)	Single sentence	1. Discriminatory intent; 2. Length of time of crime; 3. Active and direct criminal participation;	1. Family situation; 2. Poor health.	<u>Aggravating</u> 1. Vulnerability of victim.  <u>Mitigating</u> 1. Family situation;



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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		laws/customs of war-murder. 25 May 2005			<ul style="list-style-type: none"> <li>4. Premeditation;</li> <li>5. Violent and humiliating nature of acts;</li> <li>6. Vulnerability/youth of witnesses;</li> <li>7. Lack of remorse.</li> </ul>		2. Poor health.
Banovic, Predrag	guard at the Keraterm camp	<ul style="list-style-type: none"> <li>1. Crime against humanity-persecution (murder, beatings, confinement)</li> </ul> 29 June 2004	8 years (TC)		<ul style="list-style-type: none"> <li>1. Vulnerability of the victims</li> <li>2. Abuse of position of power</li> </ul>	<ul style="list-style-type: none"> <li>1. Guilty plea;</li> <li>2. Remorse;</li> <li>3. Subordinate position;</li> <li>4. Personal circumstances/character;</li> <li>5. Behavior in detention.</li> </ul>	<u>Aggravating</u> 1. Abuse of position of power.
Blagojevic, Vidoje	Colonel in JNA	<ul style="list-style-type: none"> <li>1. Complicity to commit genocide;</li> <li>2. Crime against humanity-murder;</li> <li>3. Crime against humanity-persecution;</li> <li>4. Crime against humanity-inhumane acts (forcible transfer);</li> <li>5. Violation of the law or customs of war-murder.</li> </ul> 17 January 2005	18 years (TC)	Single sentence	<ul style="list-style-type: none"> <li>1. Number of victims;</li> <li>2. Status/vulnerability of victims;</li> <li>3. Educational background of the Accused;</li> <li>4. Position of authority;</li> <li>5. Voluntary participation and prolonged nature.</li> </ul>	<ul style="list-style-type: none"> <li>1. Behavior after commission of the crimes.</li> </ul>	<u>Mitigating</u> 1. Behavior after the crimes.
Blaskic, Tihomir	commander of the HVO armed forces	<ul style="list-style-type: none"> <li>1. Violation of laws/customs of war-cruel treatment;</li> </ul> 17 January 2005	45 years (TC) 9 years (AC)	Single sentence			<u>Aggravating</u> 1. How the crime was committed;

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
	headquarters in central Bosnia	2. Geneva Convention/Grave Breach -inhuman treatment. 3 March 2000					2. Effect on victims; 3. Command responsibility.  <u>Mitigating</u> 1. Behavior during trial.
Bralo, Miroslav	Soldier within HVO	1. Crime against humanity- persecution; 2. Violation of law/custom of war-murder; 3. Violation of law/custom of war-torture or inhuman treatment; 4. Violation of law/custom of war-rape; 5. Geneva Convention/Grave Breach-torture; 6. Geneva Convention/Grave Breach-unlawful confinement; 7. Geneva Convention/Grave Breach-inhumane treatment. 7 December 2005	20 years(TC) (ac) affirms	Single sentence	1. Large number of victims; 2. The youth of the victims; 3. Exacerbated humiliation and degradation of witness.	1. The prior good character of Bralo; 2. The immediate background to the commission of the offences; 3. The use of Bralo by his superiors; 4. The time period covered by the Indictment; 5. The sheltering of others by Bralo; 6. His steps towards rehabilitation; 7. Voluntary surrender and guilty pleas; 8. His remorse; 9. Cooperation of value to the Tribunal; 10. Cooperation of value to the people of Ahmici.	<u>Aggravating</u> 1. Nature of the crime; 2. Youth of the victims; 3. Exacerbated humiliation and degradation; 4. Number of victims.  <u>Mitigating</u> 1. Family and personal circumstances; 2. Guilty plea before trial; 3. Remorse; 4. Voluntary surrender; 5. Cooperation with Prosecution; 6. Good behavior in detention.

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Brdjanin, Radoslav	President of the ARK War Presidency	<ol style="list-style-type: none"> <li>1. Crime against humanity-persecution (deportation, inhumane acts);</li> <li>2. Violation of war-law/custom of war-destruction of religious institutions;</li> <li>3. Geneva Convention/Grave Breach -willful killing.</li> </ol> <p>1 September 2004</p>	32 years (TC) 30 years (AC)	Single sentence	<ol style="list-style-type: none"> <li>1. Senior position and abuse of authority;</li> <li>2. Scale and scope of crime;</li> <li>3. Number of victims;</li> <li>4. Status/vulnerability of victims;</li> <li>5. Willingness of the accused's participation;</li> <li>6. Educational background;</li> <li>7. Duration of the criminal conduct.</li> </ol>	<ol style="list-style-type: none"> <li>1. Benevolent treatment of population;</li> <li>2. Fair and equal treatment of all population;</li> <li>3. Public pronouncements calling for law/order;</li> <li>4. Lack of prior violent criminal acts;</li> <li>5. Personal circumstances;</li> <li>6. Lack of personal gain or profit;</li> <li>7. General attitude towards proceedings;</li> <li>8. Remorse.</li> </ol>	<p><b>Aggravating</b></p> <ol style="list-style-type: none"> <li>1. Senior position and abuse of authority;</li> <li>2. Status/vulnerability of victims;</li> <li>3. Willingness of the accused's participation;</li> <li>4. Duration of the criminal conduct;</li> <li>5. Educational background of the accused.</li> </ol> <p><b>Mitigating</b></p> <ol style="list-style-type: none"> <li>1. Contributing to the decision to provide shelter to Bosnian Muslims;</li> <li>2. Equal treatment;</li> <li>3. Participating in the decision to arrest; members of the Mice group;</li> <li>4. Voicing concern about paramilitaries;</li> <li>5. Family status and age;</li> </ol>

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Cerkez, Mario	Commander of the Viteska Brigade	<ol style="list-style-type: none"> <li>1. Crime against humanity-persecution;</li> <li>2. Crime against humanity-imprisonment;</li> <li>3. Geneva Convention/Grave Breach -unlawful confinement of civilians.</li> </ol> <p>26 February 2001</p>	<p>15 years (TC) 6 years (AC)</p>	Single sentence			<p>6. Speeches against profiteering; 7. Respectful conduct; 8. Remorse.</p> <p>Aggravating 1. Role as a commander.</p>
Cesic, Ranko	Member of the Bosnian Serb Police Reserve unit	<ol style="list-style-type: none"> <li>1. Crime against humanity-murder;</li> <li>2. Crime against humanity-rape;</li> <li>3. Violation of law/customs of war-humiliating and degrading treatment;</li> <li>4. Violation of law/customs of war-murder.</li> </ol> <p>11 March 2004</p>	18 years (TC)	Single sentence	<ol style="list-style-type: none"> <li>1. Vulnerability of victims;</li> <li>2. Purposefully cruel conduct;</li> <li>3. Humiliating depravity;</li> <li>4. Abuse of position;</li> <li>5. Recurrence of criminal conduct over a period.</li> </ol>	<ol style="list-style-type: none"> <li>1. Guilty plea;</li> <li>2. Remorse;</li> <li>3. Good character;</li> <li>4. Exemplary behavior;</li> <li>5. Age;</li> <li>6. Stress and indoctrination;</li> <li>7. Was executing orders.</li> </ol>	<p>Aggravating 1. Cruelty and depravity.</p> <p>Mitigating 1. Guilty plea; 2. Cooperation with Prosecution; 3. Remorse.</p>
Delic, Hazim	Deputy commander of	<ol style="list-style-type: none"> <li>1. Geneva Convention/Grave</li> </ol>	18 years (TC) (AC)	Single sentence			<p>Aggravating 1. Sadistic nature;</p>

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
	Celebici prison camp	Breach -willful killing; 2. Geneva Convention/Grave Breach -willfully causing great suffering; 3. Geneva Convention/Grave Breach -torture; 4. Geneva Convention/Grave Breach -inhumane treatment.  9 October 2001	confirms				2. Abuse of power.  <u>Mitigating</u> 1. Providing comforts to detainees; 2. Personal circumstances.
Deronjic, Miroslav	President of the Bratunac Municipal Board of the Serbian Democratic Party of Bosnia and Herzegovina	1. Crime against humanity-persecution (attack of village, killing of civilians, forcible displacement, destruction of religious institution, destruction of civilian property).  30 March 2004	10 years (TC) (AC) affirms	Single sentence	1. Superior position as political leader; 2. Vulnerable and helpless situation of the victims.	1. Guilty plea; 2. Substantial cooperation; 3. Contribution to prevention of revisionism of crimes; 4. Remorse; 5. No opportunity for voluntary surrender; 6. Good behavior.	<u>Aggravating</u> 1. Large number of civilians killed; 2. Meticulously planned attack; 3. Abuse of power; 4. Additional burning of house following attack; 5. Exacerbating the vulnerability of the victims.  <u>Mitigating</u> 1. Remorse; 2. Contribution to

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Dosen, Damir	Shift leader at the Keraterm camp	1. Crime against humanity-persecution. 3 November 2001	5 years (TC)	Single sentence			prevention of revisionism of crimes; 3. Substantial cooperation; 4. Guilty plea. <u>Aggravating</u> 1. Superior position. <u>Mitigating</u> 1. Ameliorated the terrible conditions; 2. Guilty plea; 3. Remorse.
Erdemovic, Drazen	Sergeant	1. Violation of the law or customs of war.	5 years (TC)	Single sentence			<u>Mitigating</u> 1. Young age; 2. Family and background; 3. No criminal record; 4. Remorse; 5. Cooperation with Prosecution; 6. Duress.
Furdzija, Anto	Local commander of special unit of military police of the HVO	1. Violation of law/custom of war-torture; 2. Violation of law/custom of war-rape. 10 December 1998	1. 10 years (TC) 2. 8 years (TC)	Concurrent			<u>Aggravating</u> 1. Horrifying nature of attack; 2. Role as commander; 3. Nature of victim.

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Galic, Stanislav	SRK Corps Commander	1. Crime against humanity-inhumane acts; 2. Crime against humanity-murder; 3. Violation of law/customs of war-act of violence to spread terror. 5 December 2003	20 years(TC) Life imprisonment AC)	Single sentence	1. Respectful position accused was held in by his subordinates.	1. Cooperation with authorities; 2. Respectful of other people's nationality and religion.	<u>Mitigating</u> 1. Young age. <u>Aggravating</u> 1. Breach of public duty while holding senior position. <u>Mitigating</u> 1. Respect for Tribunal.
Hadzihanovic, Enver	Chief and Deputy Commander of the ABiH Supreme Command Staff	1. Violations of the laws/customs of war-murder, cruel treatment. 15 March 2006	5 years				<u>Aggravating</u> 1. Duration of crime; 2. Number of victims; 3. Character of crime. <u>Mitigating</u> 1. Cooperation; 2. Family circumstance; 3. Good character.
Jelisc, Goran	Commander of Luka Camp	1. Violations of the laws/customs of war-plunder; 2. Violations of the laws/customs of war-cruel treatment; 3. Violation of	40 years (TC)	Single sentence		1. Age of accused; 2. Never convicted a violent crime; 3. Family situation; 4. Mental illness; 5. Acted under orders; 6. Remorse.	<u>Aggravating</u> 1. Sadistic nature of behavior. <u>Mitigating</u> 1. Age of accused;

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Jokic, Dragon	Major in the JNA	<p>law/customs of war-murder;</p> <p>4. Crime against humanity-inhumane acts;</p> <p>5. Crime against humanity-murder.</p> <p>14 December 1999</p> <p>1. Crime against humanity-extermination;</p> <p>2. Crime against humanity-persecution;</p> <p>3. Violation of law/custom of war-murder.</p>	9 years (TC)	Single sentence	<p>1. Number of Victims;</p> <p>2. Status/vulnerability of victims;</p> <p>3. Educational background of the Accused.</p>	<p>1. Good character;</p> <p>2. Family circumstances;</p> <p>3. Voluntary surrender/cooperation;</p> <p>4. Behavior after commission of crimes.</p>	<p>2. Never convicted a violent crime;</p> <p>3. Family situation.</p>
Jokic, Miodrag	Commander of the Ninth Naval Sector (VPS)	<p>18 March 2006</p> <p>1. Violation of law/custom of war-murder;</p> <p>2. Violation of law/custom of war-cruel treatment;</p> <p>3. Violation of law/custom of war-devastation not justified by military necessity;</p> <p>4. Violation of law/custom of war-unlawful attack on</p>	7 years (TC)	Single sentence	<p>1. Leadership position;</p> <p>2. Vulnerability of victims;</p> <p>3. Special status of the Old Town of Dubrovnik.</p>	<p>1. Voluntary Surrender;</p> <p>2. Guilty plea;</p> <p>3. Remorse;</p> <p>4. Cooperation with the Prosecution;</p> <p>5. Personal circumstances.</p>	<p>Aggravating</p> <p>1. Leadership position.</p> <p>Mitigating</p> <p>1. Voluntary surrender;</p> <p>2. Guilty plea;</p> <p>3. Remorse;</p> <p>4. Cooperation with the Prosecution;</p> <p>5. Personal circumstances.</p>



Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Kolundzija, Dragan	Shift leader at the Keraterm camp	<p>civilians;</p> <p>5. Violation of war-law/custom of war-unlawful attack on civilian objects;</p> <p>6. Violation of war-law/custom of war-destruction of institutions.</p> <p>18 March 2004</p> <p>1. Crime against humanity-persecution.</p> <p>13 November 2001</p>	3 years (TC)	Single sentence			<p><u>Aggravating</u></p> <p>1. Abusing power of trust.</p> <p><u>Mitigating</u></p> <p>1. Guilty plea</p> <p>2. Favorable treatment of detainees.</p> <p><u>Aggravating</u></p> <p>1. Role as a leader.</p>
Kordic, Dario	Co-ordinator of the Travnik Regional Community of the HDZ-BiH	<p>1. Crime against humanity-persecution;</p> <p>2. Crime against humanity-murder;</p> <p>3. Geneva Convention/Grave Breach -willful killing;</p> <p>4. Violation of the laws/customs of war-unlawful attack on civilians;</p> <p>5. Violation of the</p>	25 years (TC)				

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		laws/customs of war-wanton destruction not justified by military necessity; 6. Violation of the laws/customs of war-plunder of property.					
Kovac, Radomir	Member of a military unit	26 February 2001 1. Crime against humanity-enslavement; 2. Crime against humanity-rape; 3. Violation of the laws/customs of war-rape; 4. Violation of the laws/customs of war-outrages upon personal dignity.	20 years (TC)	Single sentence	1. Age of victims; 2. Sadistic nature; 3. Vulnerability of witness.		<u>Aggravating</u> 1. Age of victims. 2. Vulnerability of witnesses; 3. Involvement of more than one victim in his offence.
Krajisnik, Momcilo	Member of the expanded Presidency of the Bosnian Serb Republic	2 November 2001 1. Crime against humanity-persecution; 2. Crime against humanity-extermiation; 3. Crime against humanity-murder; 4. Crime against humanity-deportation;	27 years (TC)	Single sentence			<u>Aggravating</u> 1. Brutality; 2. Duration of crimes; 3. Role in Bosnian-Serb leadership. <u>Mitigation</u> 1. Lack of prior convictions;

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Krnjelac, Milorad	Commander of the the Foca Kazneno-Popravni Dom ("KP Dom") prison	5. Crime against humanity-inhumane act. 27 September 2006	7.5 years (TC) 15 years (AC)	Single sentence	1. Acted for personal gain; 2. Guilty of abuse of his authority; 3. Gravity of the offence.	1. Conformist personality	2. Good conduct during detention; 3. Relatively long time in detention; 4. Efforts to help non-Serbs; 5. Age; 6. Family situation. <u>Aggravating</u> 1. Gravity of the offense. <u>Mitigating</u> 1. Helping some of the detainees; 2. Cooperation; 3. Age.
Krstic, Radislav	Commander of the Drina Corps, a formation of VRS	15 March 2002 1. Crime against humanity-extermiation; 2. Crime against	46 years (TC) 35 years (AC)	Single sentence	1. Criminal participation; 2. Premeditation.	1. Cooperation; 2. Poor health.	<u>Aggravating</u> 1. Premeditation. <u>Mitigating</u>

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		<p>humanity-persecution (murders, cruel and inhumane treatment, terrorising the civilian population, forcible transfer and destruction of personal property of Bosnian Muslim civilians);</p> <p>3. Violation of Law/Customs of War-murder.</p>					1. Poor health.
Kubura, Amir	Chief of Staff and Deputy Commander of the 7 <sup>th</sup> Brigade (ABIH)	<p>2 August 2001</p> <p>1. Violations of laws/customs of war-pillage.</p>	2.5 years (TC)	Single sentence			<p>Aggravating</p> <p>1. Systematic nature of pillage.</p> <p>Mitigating</p> <p>1. Cooperation;</p> <p>2. Family situation.</p>
Kunarac, Dragoljub	Leader of reconnaissance group	<p>1. Crime against humanity-torture;</p> <p>2. Crime against humanity-rape;</p> <p>3. Crime against humanity-rape;</p> <p>4. Crime against humanity-enslavement;</p> <p>5. Crime against</p>	28 years (TC)	Single sentence			<p>Aggravating</p> <p>1. Responsibility as a commander;</p> <p>2. Youthful age of victims;</p> <p>3. Duration of crime;</p> <p>4. Discriminatory nature;</p> <p>5. Vulnerable</p>

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Josipovic. Drago	Village guard in the HVO	<p>humanity-rape: 6. Violation of the laws/customs of war-torture; 7. Violation of law/custom of war-rape.</p> <p>22 February 2001</p> <p>1. Crime against humanity-murder; 2. Crime against humanity-other inhumane acts; 3. Crime against humanity-persecution.</p> <p>14 January 2000</p>	<p>1. 15 years (TC) 12 years (AC) 2. 10 years (TC) 3. 10 years (TC)</p>	Concurrent			<p>nature of victims.</p> <p><u>Mitigating</u> 1. Cooperation and voluntary surrender; 2. Remorse.</p> <p><u>Aggravating</u> 1. Nature of the crime.</p> <p><u>Mitigating</u> 1. Lent army vest to victim; 2. Stopped soldiers from killing victims; 3. Voluntarily surrendered to Tribunal.</p> <p><u>Aggravating</u> 1. Number of victims; 2. Vulnerability of victims; 3. Personal gain.</p> <p><u>Mitigating</u> 1. Lack of police training.</p>
Kos. Mlójica	Shift leader of guards at Omarska Camp	<p>1. Crime against humanity-persecution for murder, torture, and beating, sexual assault, humiliation; 2. Violation of the laws/customs of war-murder; 3. Violations of the laws/customs of war-torture.</p>	6 years (TC)	Single sentence			

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Kvočka, Miroslav	Commander and deputy commander of Omarska Camp	2 November 2001 1. Crime against humanity-persecution for murder, torture, and beating, sexual assault, humiliation; 2. Violation of the laws/customs of war-murder; 3. Violations of the laws/customs of war-torture.	7 years (TC)	Single sentence			<u>Aggravating</u> 1. Number of victims. 2. Vulnerability of victims; 3. Abuse of authority.  <u>Mitigating</u> 1. Cooperation; 2. Good character.
Landzo, Esad	Guard at Celebici prison camp	2 November 2001 1. Grave Breach/Geneva Convention-willful killing; 2. Grave Breach/Geneva Convention-willful killing; 3. Grave Breach/Geneva convention-willful killing; 4. Grave Breach of Geneva Convention-willful killing; 5. Grave Breach/Geneva Convention-serious injury	1. 15 years (TC) 2. 15 years (TC) 3. 15 years (TC) 4. 15 years (TC) 5. 15 years (TC) 6. 5 years (TC) 7. 7 years(TC) 8. 7 years (TC) 9. 7 years (TC) 10. 5 years (TC)	Single sentence			<u>Aggravating</u> 1. Substantial pain inflicted on individuals.  <u>Mitigating</u> 1. Relative youth; 2. Family background.

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		treatment; 6. Grave Breach of Geneva convention-torture; 7. Grave Breach/Geneva Convention-torture; 8. Grave Breach/Geneva Convention-torture; 9. Grave Breach/Geneva Convention-serious injury; 10. Grave Breach/Geneva Convention-serious injury.	(TC) 11.5 years (TC) 15 years (AC)				
Martinovic, Vinko	Commander	9 October 2001 1. Crime against humanity-persecution; 2. Crime against humanity-inhuman acts; 3. Crime against humanity-murder; 4. Grave Breach/Geneva Convention-inhuman treatment; 5. Grave Breach/Geneva	18 years (TC)	Single sentence			

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		Convention-willfully causing great suffering: 6. Grave Breach/Geneva Convention-willful killing; 7. Grave Breach/Geneva Convention-unlawful transfer of a civilian; 8. Violation of law/customs of war-plunder.					
Mrdja, Darko	Member of the Prijedor Police "Intervention Squad"	31 March 2003 1. Violation of the laws/customs of war-murder; 2. Crime against humanity-inhumane acts.  31 March 2004	17 years (TC)	Single sentence	1. Vulnerability of victims; 2. Authority as a policeman; 3. Impact of the crimes upon the victims.	1. Guilty plea; 2. Expression of remorse; 3. Cooperation; 4. Personal circumstances; 5. Duress; 6. Following orders; 7. Lapse of time since crime occurred; 8. Serving sentence in foreign country.	<u>Aggravating</u> 1. Cruelty; 2. Vulnerability of victims; 3. Abuse of authority.  <u>Mitigating</u> 1. Guilty plea; 2. Expression of remorse; 3. Cooperation; 4. Personal circumstances.  <u>Aggravating</u> 1. Defiant attitude and lack of respect for
Mucic, Zdravko	Commander of Celebici prison camp	1. Grave Breach/Geneva Convention-willful killing;	9 years (TC)	Single sentence			

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Naletilic Mladen	Commander of KB	<p>2. Grave Breach/Geneva Convention-torture;</p> <p>3. Grave Breach/Geneva Convention-willfully causing serious injury;</p> <p>4. Grave Breach/Geneva Convention-inhuman treatment;</p> <p>5. Grave Breach/Geneva Convention-unlawful confinement.</p> <p>9 October 2001</p> <p>1. Violation of law/custom of war-unlawful labor;</p> <p>2. Violation of law/custom of war-wanton destruction not justified by necessity;</p> <p>3. Violation of law/custom of war-plunder of property;</p> <p>4. Crime against humanity-torture;</p> <p>5. Grave Breach/Geneva Convention-torture;</p>	20 years (TC)	Single sentence			<p>judicial process;</p> <p>2. Threatening of witnesses.</p> <p><u>Mitigating</u></p> <p>1. Saving life of detainee.</p>

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Nikolic, Dragan	Commander in Susica detention camp	6. Grave Breach/Geneva Convention-unlawful transfer of civilians. 31 March 2003 1. Crime against humanity-persecution; 2. Crime against humanity-murder; 3. Crime against humanity-rape; 4. Crime against humanity-torture. 18 December 2003	23 years (TC)	Single sentence	1. Position as commander; 2. Vulnerability of the victims; 3. Depravity of the crimes; 4. Fact that there were multiple victims; 5. Victims were known by the accused.	1. Guilty plea; 2. Remorse; 3. Reconciliation; 4. Cooperation; 5. Character; 6. Length of proceedings.	<u>Aggravating</u> 1. Position of authority; 2. Vulnerability of the victims; 3. Depravity of the crime; 4. High number of victims; 5. Personal gain; 6. Vulnerability of the victims.  <u>Mitigating</u> 1. Guilty plea; 2. Remorse; 3. Reconciliation; 4. Disclosing of additional information.
Nikolic, Momir	Assistant Commander and Chief of Security and Intelligence of the Bratunac Brigade of the VRS	1. Crime against humanity-persecution (murder, cruel and inhumane treatment, terrorizing the civilian population, destruction of personal property,	27 years (TC) 20 years (AC)	Single sentence	1. Position of authority; 2. Vulnerability of victims; 3. Depravity of the crimes.	1. Guilty plea; 2. Cooperation with the Prosecution; 3. Remorse; 4. Character; 5. No opportunity for voluntary surrender; 6. Compartment in the	<u>Aggravating</u> 1. Position of authority; 2. Depravity of the crimes.  <u>Mitigating</u> 1. Guilty plea

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		forcible transfer). 2 December 2003				UNDU; 7. Personal circumstances.	2. Cooperation with Prosecution; 3. Remorse; 4. Character; 5. Compartment in the UNDU; 6. Personal circumstances.
Obrenovic, Dragan	Chief of Staff and Deputy Commander at the Zvornik Brigade	1. Crime against humanity-persecution. 10 December 2003	17 years (TC)	Single sentence	1. Position of leadership; 2. Vulnerability of victims; 3. Depravity of the crimes.	1. Guilty plea; 2. Remorse; 3. Cooperation with the Prosecution; 4. Character; 5. No opportunity for voluntary surrender; 6. Compartment in the UNDU; 7. Personal circumstances.	<u>Aggravating</u> 1. Vulnerability of victims.  <u>Mitigating</u> 1. Guilty plea; 2. Acceptance of responsibility; 3. Remorse; 4. Character; 5. Cooperation; 6. Offer of voluntary surrender; 7. compartment at the UNDU; 8. Personal circumstances.
Plavsic, Biljana	Acting President of the Serbian Republic of Bosnia and Herzegovina	1. Crime against humanity-persecution. 27 February 2003	11 years (TC)	Single sentence	1. The leadership position of the accused; 2. The vulnerability of the victims; 3. The depravity of the crimes to	1. Guilty plea; 2. Voluntary surrender; 3. Post-conflict conduct; 4. Age; 5. Cooperation.	<u>Aggravating</u> 1. Leadership position.  <u>Mitigating</u> 1. Guilty plea; 2. Voluntary surrender;

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating which the victims were subjected.	Mitigating	Judge Comments
Prcac. Dragoljub	Deputy Commander of Omarska Camp	1. Crime against humanity-persecution for murder, torture, and beating, sexual assault, humiliation; 2. Violation of the laws/customs of war- murder; 3. Violations of the laws/customs of war- torture.  2 November 2001	5 years (TC)	Single sentence			3. Post-conflict conduct; 4. Age.  <u>Aggravating</u> 1. Number of victims; 2. Vulnerability of victims.  <u>Mitigating</u> 1. Cooperation; 2. Age; 3. Family situation.
Radic. Mladjo	Policeman at Omarska Camp	1. Crime against humanity-persecution for murder, torture, and beating, sexual assault, humiliation; 2. Violation of the laws/customs of war- murder; 3. Violations of the laws/customs of war- torture.  2 November 2001	20 years (TC)	Single sentence			<u>Aggravating</u> 1. Large number of victims; 2. Vulnerability of victims; 3. Abuse of power for personal gain; 4. Excessive and deliberate cruelty.  <u>Mitigating</u> 1. Cooperation with Tribunal.
Rajic, Ivica	Commander of the Second Operational Group	1. Grave Breach/Geneva Convention-willful killing;  2 November 2001	12 years (TC)	Single sentence	1. Position of authority; 2. Vulnerability of victims;	1. Guilty plea; 2. Remorse; 3. Cooperation with the Prosecution;	<u>Aggravating</u> 1. Special vulnerability of victims.

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
		2. Grave Breach/Geneva Convention-inhuman treatment; 3. Grave Breach/Geneva Convention-appropriation of property; 4. Grave Beach/Geneva Convention-extensive destruction not justified by military necessity. 8 May 2006			3. Participation in cover-up.	4. Personal circumstances.	<u>Mitigating</u> 1. Guilty plea; 2. Remorse; 3. Cooperation with the Prosecution; 4. Personal circumstances.
Santic, Vladimír	Commander of the 1st Company of the 4th Battalion of the Military Police	1. Violation of law/custom of war-murder; 2. Violation of law/custom of war-cruel treatment; 3. Crime against humanity-murder; 4. Crime against humanity-persecution; 5. Crime against humanity-inhumane acts. 14 January 2000	3. 15 years (TC) 4. 18 years (AC) 25 years (TC) 5. 10 years (TC)	Concurrent			<u>Mitigating</u> 1. Voluntarily surrendered to Tribunal.

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Sikirica, Dusko	Commander of Security at the Keraterm camp	1. Crime against humanity-persecution. 13 November 2001	15 years (TC)	Single sentence			<u>Aggravating</u> 1. Failure in his duty 2. Position of authority. <u>Mitigating</u> 1. Guilty plea: 2. Remorse.
Simic, Blagoje	President of the Serbian Democratic Party (SDS) in Bosanski Samac	1. Crime against humanity-persecution. 17 October 2002	17 years (TC)	Single sentence			
Simic, Milan	President of the Executive Board of the Bosanski Samac Assembly	1. Crime against humanity-torture; 2. Crime against humanity-inhumane acts. 17 October 2002	1. 5 years (TC) 2. 5 years (TC)	Concurrent			<u>Aggravating</u> 1. Manner in which the crimes were committed; 2. Position of authority; 3. Status of the victims; 4. Repeated and separate offences; 5. Discriminatory intent. <u>Mitigating</u> 1. Plea of guilty; 2. Remorse; 3. Health; 4. Age, character, family circumstances

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Stakic, Milomir	Vice-president of the SDS Municipal Board	1. Crime against humanity-extermination; 2. Violation of the laws/customs of war-murder, 3. Crime against humanity-persecution (murder, deportation); 4. Crime against humanity-other inhumane acts (AC).  31 July 2003	Life sentence (TC) 40 years (AC)	Single sentence			5. Voluntary surrender to the tribunal; 6. No prior criminal conviction; 7. Compartment in the UNDU.  <u>Aggravating</u> 1. Role as superior position; 2. Education.  <u>Mitigating</u> 1. Cooperation; 2. Personal situation.
Strugar, Pavle	Commander of the Second Operational Group	1. Violation of the laws/customs of war-attack on civilians; 2. Violation of laws/customs of war-damage to institutions.  31 January 2005	8 years (TC)	Single sentence			<u>Mitigating</u> 1. Voluntary surrender; 2. Poor health; 3. Good character.
Tadic, Dusko	SDS leader (town of	1. Grave Breach/Geneva	1. 9 years (TC)	Concurrent			<u>Aggravating</u> 1. Enthusiasm;

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
	Kozarac) and member of the paramilitary forces	Convention-inhuman treatment; 2. Grave Breach/Geneva Convention-suffering to body or health; 3. Grave Breach/Geneva Conventions-serious injury to health; 4. Grave Breach/Geneva Convention-serious injury to health; 5. Grave Breach/Geneva Convention-serious injury to health; 6. Grave Breach/Geneva Convention-willful killing; 7. Violation of the laws/customs of war-murder; 8. Crime against humanity-murder; 9. Grave Breach/Geneva convention-great suffering to body. 11 November 1999	2. 9 years (TC) 3. 6 years (TC) 4. 6 years (TC) 5. 6 years (TC) 6. 24 years (TC) 20 years (AC) 7. 24 years (TC) 20 years (AC) 8. 25 years (TC) 20 years (AC) 9. 9 years (TC)				2. Brutal treatment. <u>Mitigating</u> 1. Personal circumstances.

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Tadic, Miroslav	Chairman of the Bosanski Samac "Exchange Commission"	1. Crime against humanity-persecution. 17 October 2002	8 years (TC)	Single sentence			<p><u>Aggravating</u></p> <ol style="list-style-type: none"> <li>Manner in which the crime was committed;</li> <li>Status of victims;</li> <li>Previous education.</li> </ol> <p><u>Mitigating</u></p> <ol style="list-style-type: none"> <li>Benevolent acts;</li> <li>Voluntary surrender;</li> <li>Remorse;</li> <li>Personal circumstances;</li> <li>No-prior criminal conviction;</li> <li>Comportment in the UNDU.</li> </ol>
Todorovic, Stevan	Chief of Police for Bosanski Samac municipality	1. Crime against humanity-persecution. 31 July 2001	10 years (TC)	Single sentence	<ol style="list-style-type: none"> <li>The gravity of the offence;</li> <li>How the crime was committed;</li> <li>The effect of the crime on the victims;</li> <li>The position of the defendant as a superior officer.</li> </ol>	<ol style="list-style-type: none"> <li>Remorse;</li> <li>Guilty plea;</li> <li>Cooperation with the Prosecution.</li> </ol>	<p><u>Aggravating</u></p> <ol style="list-style-type: none"> <li>Position of superiority.</li> <li>Particular cruelty.</li> </ol> <p><u>Mitigation</u></p> <ol style="list-style-type: none"> <li>Guilty plea;</li> <li>Substantial cooperation;</li> <li>Remorse.</li> </ol>

2,597

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Vasiljevic, Mitar	Member of paramilitary group	1. Crime against humanity-persecution; 2. Violation of the laws/customs of war-murder. 29 November 2002	20 years (TC) 15 years (AC)	Single sentence			<u>Aggravating</u> 1. Discriminatory state of mind; 2. Cold blooded nature; 3. Victims were known.
Zaric, Simo	Chief of National Security Service" for Bosanski Samac	1. Crime against humanity-persecution. 17 October 2002	6 years (TC)	Single sentence			<u>Aggravating</u> 1. Manner in which the offences were committed; 2. Status of the victims; 3. Personal circumstances.  <u>Mitigating</u> 1. Benevolent acts; 2. Voluntary surrender; 3. Remorse; 4. Personal circumstances; 5. No prior criminal conviction; 6. Comportment in the UNDU.
Vukovic, Zoran	Member of a military unit	1. Crime against humanity-torture; 2. Crime against	12 years (TC)	Single sentence			<u>Aggravating</u> 1. Youthful age of victim;

Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments
Zigic, Zoran	Guard at Camp	<p>humanity-rape;  3. Violation of the laws/customs of war-torture;  4. Violation of the laws/customs of war-rape.</p> <p>1. Crime against humanity-persecution for murder, torture, and beating, sexual assault, humiliation;  2. Violation of the laws/customs of war-murder.  3. Violations of the laws/customs of war-torture;  4. Violations of law/customs of war-cruel treatment.</p>	25 years (TC)	Single sentence			<p>2. Vulnerability of victim.</p> <p><u>Aggravating</u>  1. Extreme gravity of the crime.</p>
Martic, Milan	President of RSK	<p>2 November 2001</p> <p>1. Crime against humanity (Persecutions, Murder, Imprisonment, Torture, Inhumane Acts, Forcible Transfer);  2. Violations of Laws and Customs of War (Murder, Torture,</p>	35 years (TC)	Single sentence			<p><u>Aggravating</u>  1. Senior Leadership position;  2. Widespread conduct over 4 years.</p> <p><u>Mitigating</u>  1. Expulsion of Martić family</p>

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Name	Position	Conviction	Sentence	Consecutive/Concurrent	Aggravating	Mitigating	Judge Comments (limited weight).
		Cruel treatment. Wanton destruction of villages, Plunder).					

**ANNEX C**

**Cases from National Courts of Sierra Leone**

**C (i) *State v. Julius Pratt*, 17 November 2005**

**C (ii) *State v. Vandi Johnson***

**C (iii) *State v. Tommy M'Bayoh & 3 Others***

**C (iv) *State v. Aiah Musa Mommoni*, High Court of Sierra Leone, 3 June 2004**

**C (v) *State v. Hassan Mahoi*, High Court of Sierra Leone, 8 November 2005**

**C (vi) *State v. Amadu Macaully et. al***

21601

**C (i) *State v. Julius Pratt*, 17 November 2005**

*Prosecutor v. Fofana, Kondewa, SCSL-04-14-T*

JUDGEMENT

The accused person stand indicted for misappropriation of public funds contrary to Section 12 (1) of the Anti Corruption Act, 2000 as amended.

Particulars whereof are that Mr. Julius Pratt who is an Accounts Clerk with the Sierra Leone Library Board, on or about the 26<sup>th</sup> day of May, 2004, in Freetown in the Western Area misappropriated a sum of Le3, 001,477.26 being an amount from a Public Fund, by which said Act or misappropriation the Government of Sierra Leone was deprived of the said funds. The accused person denied the offence.

In most criminal cases, the burden of proof is upon the prosecution to prove the allegations levied against him. And the burden of proof is usually beyond reasonable doubt, whereby if the court finds any doubt about the accused person it has no alternative but to acquit him (See Woolministon Vs. The D.P.P. 1935 Act. 462.

In the premises an accused person has no duty to prove his innocency, except in a few instance, where the burden of proof shifts.

The instant case in my view does not fall in such category of cases.

The offence with which the accused person is indicted with is created by the Anti Corruption Act., 2000 as amended. The relevant section is Section 12.

Section 12 (1) enacts as follows:-

12 (1) "Any person who misappropriate Public Revenue, Public Funds or property is guilty of an offence.

Section 12 (2) defines what misappropriation under S. 12 (1) means:-

12 (2) A person misappropriates public revenue, public funds or property if he willfully commits an act whether by himself with or through another person by which the Government a public corporation or a local authority in deprived of revenue funds, or other financial interest or property belonging or due to the Government, the public corporation or local authority.

In my view the ingredients of the offence would include the following:-

- (a) The money or property deprived must be public money or property.
- (b) His actions must be of willful nature.

In a bid to prove the case against the accused person the prosecution called a total of 8 witnesses. The accused person on his part denied the offence and appears to suggest as I understood him that he was only obeying orders from above and that had passed on the extra money to his bosses, and himself never benefited at all.

This is echoed by his learned Counsel, Mr. Thompson who submitted to the effect that even if the accused knew that the instructions he got from his superiors to prepare cheques over and above the amounts, P.W.2, P.W.3, P.W.4, P.W.5 and P.W.6 were getting per month he is not responsible for his actions, but that his bosses, (P.W.1, Chairman of the Board and P.W.8) should be the ones responsible as his client handed over the extra money to them. I will later on in my judgment examine whether an offender Under S. 12 (1) of the Anti Corruption Act, must benefit from his actions before he is found guilty or not.

I will now examine the evidence adduced by both sides, in light of the ingredients of the offence.

I would however, first point out the undisputed facts.

These include the following that the accused person was employed as a public officer as an Accounts Clerk/Assistant by the Sierra Leone Library Board, which is a public body and operates under the Ministry of Education.

That at the time of the alleged misappropriation of the funds, the accused person was working under P.W.8 and was inter alia in charge of the preparations of salary vouchers and salary cheques on behalf of the Sierra Leone library Board. These included P.W.3, P.W.4, P.W.5, and P.W.6.

It is also common knowledge that the exhibited cheques (Exhibits B, C, D and E and F) were for the month of May, 2004. It is also not in dispute that the amount of money which appears on the face of each cheque as exhibited is well above the regular and true salary of the payees.



which appears on the face of each cheque as exhibited is well above the regular and true salary of the payees.

The normal salary structure of some of the Sierra Leone library Board employees, for the month of May, 2004 is indicated in voucher for that month (Exhibit A

It is also common ground that apart from the accused person, P.W.3, P.W.4, P.W.5 and P.W.6 received their usual salary from the accused person.

What on the other hand is in dispute including whether the accused person forged or altered the cheques to read a higher amount rather than the approved salary of each recipient.

Secondly on whose instructions were the cheques prepared? Who took the extra cash after cashing the cheques? Finally, who is criminally responsible for what happened?

As to whether there was any forgery regarding the cheques in questions. There is no doubt in my mind that, there was no any forgery proved as evidence from both sides indicate that both P.W.1, and the Chairman of the Library Board duly authenticated the cheques by signing them twice each, before the bank honored them by paying the cash as indicated on their faces.

Hence in my view the cheques never told a lie on their faces. Both the Library Board top bosses approved them and cleared them for payment.

Hence in my considered view there was no forgery of the cheques. In any case as Mr. Thompson pointed out, the accused person is not indicted for forgery but misappropriation of funds.

The second question to ask is upon whose instructions did the accused prepare the cheques? The prosecution appears to suggest that it was the accused idea to inflate the amounts on the 6 cheques and that he is the one who took the extra cash. They rely on P.W.1 and P.W.8 testimonies in which both alleges that, the accused person had accepted responsibility and promised to refund the money but has failed to do so hence these charges against him. On the other hand the accused person testified to the effect that he had got both verbal and written instructions from his superiors including the

approval of P.W.8, P.W.1 and the Board Chairman that's why the last two had signed the cheques, and the bank had honoured them as genuine.

From the above evidences it is my considered view that the accused person did not and could not have acted alone. It is obvious from the evidences from P.W.1, P.W.8 and the accused person that it could have been impossible for the accused to have the cheque approved and subsequent honoured by the Bank without the actual or tacit approval of his bosses. P.W.1 told court that he checked all cheques and vouchers before they paid. Actually he does the checking twice before the same are typed and passed on to the Chairman of the Board for signature before he also counter signs. P.W.8 told court that the two sets of signatures by both the Chairman and P.W.1 were genuine as he was well familiar with them that apart from approving the cheques they also appended their second set of their signatures thereby authorizing the bank to pay cash, instead of by *allow* payee only.

This in my considered view eliminates the prosecutions contention that the brain child of the accused person alone to steal government money if this was the case, it would have been impossible for him to succeed without the participation and approval of both P.W.1 and the Board Chairman as signatories of all cheques from the Library Board.

In my view it was a syndicate perpetuated by both the accused and the senior officers of the Library Board, including the Board Chairman, P.W.1, and P.W.8. However the prosecution for reasons best known to themselves chose to prosecute only the accused person.

The next question is who took the extra cash from each cheque? The prosecution alleges that it was the accused person alone and that he had promised to refund it which he had failed to do. The accused persons on the other hand maintained that he passed on the extra cash to P.W.8.

In exhibit H which is a reply from the accused person, in response to exhibit G whereby the accused was queried by his Bosses. The accused appears to acknowledge the receipt of Le730, 297.36. Then he writes the following words.

"After I received my cheque from the bank I noticed (six) there was a mistake in my cheque. I cross check with vouchers only to find out that there was an error.

21606

My apology for not returned (six) this (six) extra amount back to the bank"

Yours faithfully,  
Julius Pratt

This letter leave no doubt in my mind that the accused person at least benefited from the extra cash (See exhibit "F" the two cheques add to Le730, 297.30) Mentioned in both letters. There is no any other evidence before me to indicate otherwise. AS to whether or not the extra cash was refunded, it is my considered view that, it does not matter as the offence would be still stand. Any refund could be the one of the remedies in case an accused person is subsequently convicted (See S. 54 (2) (C.P.A.) Be it as it may, it appears it is not necessary for the prosecution to prove that the accused person charged with S. 12 (1) of the Anti Corruption Act, benefited from his action, provided it can prove that his action were willful and resulted in the government, a public corporation or a local authority to suffer loss or to be deprived of any revenue funds or other financial interest or property belonging or due to the government, a public corporation or a local authority. The word "willfully" in section 12 (2) of the Act, is the operative word or key word unfortunately the Act, does not define it. However the word "willfully" has been a subject of interpretation by courts in various English cases.

According to ARCH Bold (1998 Edition) Para 17 - 47 & 48) in absence of any specific decision on a specific Statutory provision to the contrary it was proper that any provision containing the word "willfully" in the definition of a crime should be construed in accordance with the case of R.Vs SHERPPARD (1981) AC. 394, HL.

In the SHERPPARD Case a parent was charged with willfully failing to provide adequate medical attention for his child contrary to a certain provision in the children and young persons Act, of 1935. Their Lordships of the house of Lords by majority, held to the effect that a man "willfully fails to provide adequate medical attention to his child if he either (a) deliberately does so, knowing that there is some risk that the child's health "may suffer unless he receives such medical attention or (b) does so because he does not

care whether the child may need the medical treatment or not. That is to say the mental element is material in proving willfulness on the part of the accused. LORD KEITH stated to the effect that willful is a deliberate act which he equated to common law recklessness.

Some legal Authors like CATHERINE ELLIOTT AND FRANCES QUINN (criminal Law – Pearson long man – Fifty Edition) reviewed various cases including RVS Sherpard above and those which came after it, and had the following to say on recklessness (at Page 18)

"A person will be reckless where:-

- (a) He/She does an act which in fact creates a serious risk that property would be destroyed or damaged and
- (b) Either (i) when he or she does the act, he or she has not given any thought to the possibility of the other being any such risk and the risk was in fact obvious

OR

(ii) has actually recognized that there was some risk of that kind involved and has nevertheless gone ahead to do it. My understanding of the divided cases is that "willfully" entails deliberate act as of a person while knowing and appreciating his actions would risk someone or body to suffer loss.

Such person does something because he does not care whether there is a risk of loss or not. Turning now to the fact before us, it is the prosecution case that the accused person willfully/deliberately recklessly made the government of Sierra Leone to lose funds up to the tune of 3,001,477.26 Leones. The defence as I understand it, appears to suggest that the accused person was not the beneficiary of the extra funds but that, he had passed on the same to his superior including P.W.8.

I have carefully considered all the evidence before me and I have critically analyzed the deminours of all the prosecutions witnesses and that of the accused person. It is clear to me that from the accused persons evidence and his letter to the Library Board Authorize Exhibit 'H;) that he is a ware of at least two cheques amounted to Le730,297.36 Exhibit 'F')

His defence is that he never benefited from the misappropriation funds, as he had passed it on to his bosses. That they were the ones who had in the first place given him instructions to prepare the cheque with the inflated figures. Hence in his view he cannot be held criminally responsible for the loss to the Government with all due respect to him and his Learned Counsel Mr. Thompson, I do not agree with this contention. It is clear that in criminal matter there is no doctrine by vicarious liability as the case in Civil Matters. In absence of compulsion and there is no evidence to this effect before me the accused must face his responsibility as an adult individual.

Having found as I have already pointed out above, it is clear tome that the accused person prepared all the six cheques for the month of May, 2004 in respect of P.W.3, P.W.4, P.W.5 and P.,W.8, plus himself sent the cheques to the bank for encashment, money was brought back to him. Then, he called the beneficiaries of each cheque, accused paid them in accordance with the normal salary structure as indicates in Exhibit 'A' the salary voucher for May, 2004, He however maintained that, he had passed on the extra cash to his superior through P.W.8.

Section 12 (2) of the Anti corruption Act, 2000,as Amended, gives the definition of misappropriation. It states, inter alia, that a person misappropriates funds if he 'Willfully' commits an act, whether by himself, with or through another

This means that, it does not matter whether the acts of resulting with loss was caused by the accused alone or with others. This section in my view makes all participants in the loss to the government, as principal offenders. .

The evidence indicates that he actively participated in the misappropriation of the funds of the government of Sierra Leone. According to P.W.8 & P.W.1 the funds had come from the consolidated funds, through the Ministry of Education. The definition Section

of the Act, defines Public Funds, as "Any moneys paid from funds appropriated by Parliament from the consolidated fund .....

As I have already pointed hereinabove, it does not matter whether he took the money himself or he gave it to the superiors. Act of them in my view can be held responsible as principal offenders. This is more so in light of the judgment and definition by the word 'willfully' by both Lord Deplode and Lord Keith in the case of R Vs. SHERPARD already cited above.

Secondly the element of benefiting from the misappropriated funds were not made a necessary ingredient by the legislation, while passing the Anti Corporation Act, hence it is immaterial whether the accused person personally benefited from the misappropriated funds or not. He would be held guilty if his actions falls within the definition of the word 'willfully' as per section 12 (2) of the act.

All in all and after carefully reviewing the evidence and after applying both Statutory and case law, I find that the prosecution has proved the case of misappropriation of Public Funds against the accused beyond reasonable doubt and I find him guilty of the same and he is accordingly convicted.

(Sgd) Kiiza J.

17/11/05

17/11/05

accused present

Tumwesgye for the State

Thompson for accused person

Court:- Judgment read in open court.

Prosecution: - No record of previous conviction. Sentence is the maximum of 10 years or a fine not exceeding 30 Million Leones. The offences are repugnant in Sierra Leone. I pray for a stiff sentence.

21610

ALLOCUTUS

Thompson on behalf of the accused states according to the findings of the court, it was not only the accused who perpetrated the offence, but also his superiors; he is the most junior in this department

I believe that's why he was made to pay for crimes. Accused is a young man, who has just started life and he wanted to get married in 6 months time. We pray for mercy and not to consider a custodian Sentence. I so pray.

(Sgd) Kiiza J.

Court sentence and reasons thereof. Accused is allegedly a first offender. He has prayed for mercy through his Learned Counsel.

He appears repentant & He is also a young man.

However, the offence with which he has been convicted is a serious offence. The maximum sentence is up to a fine of 30,000,000 or 10 years imprisonment or both. This no doubt, shows that the legislature wanted to pass a message to people not to inflict loss on the scarce resources of the government.

It is my considered view that the court must enforce such sentences as would pass on this message to would be offenders that no condonation should be expected from them.

Putting everything with consideration

I pass a sentence of 2 years (two) imprisonment as sentence and proper

He is also to refund the funds lost by the Government in the sum of 3,001,417

Under S. 54 (2) C.P.A. This would be at the end of serving his sentence.

He would pay it in equal installments of 100,000 Leones per Month, order accordingly.

Right of Appeal explained.

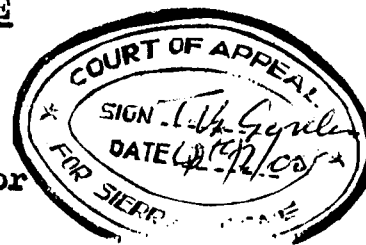
(Sgd) Kiiza J.

IN THE COURT OF APPEAL OF SIERRA LEONE

NOTICE OF APPLICATION FOR LAEVE TO APPEAL  
AGAINST SENTENCE

TO:

The Registrar of the Court of Appeal for  
Sierra Leone:



I, JULIUS PRATT having been convicted of the offence of Misappropriation of Public Funds contrary to section 12 (1) of the Anti-Corruption Act. 2000 (as amended), and being prisoner in the State's Prison at Pademba Road, Freetown hereby give you notice that I desire to apply to the Court for leave to appeal against the sentence.

COUNT 1                      2 years

UPON me for the said offence on the following ground:

That on the facts of the case the sentence was too severe.

.....  
APPLICANT.

PARTICULARS OF TRIAL AND CONVICTION

1. Date when sentence passed.
2. IN WHAT COURT: High Court holden at Freetown.

I desire to be present when the Court considers my application for leave to appeal against sentence.

- (a) I am legally represented by Counsel.
- (b) I wish my appeal to be argued and presented orally by my Counsel.



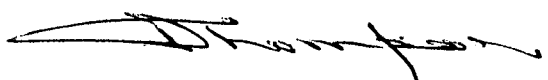
35

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(c) I desire to be present at the final hearing of my appeal.

DATED THE \_\_\_\_\_ DAY OF DECEMBER, 2005.

This Notice of Application for leave to Appeal against sentence is filed by DAVID G. THOMPSON of No. 19, Regent Road, Freetown Solicitor for the Applicant.



David G. Thompson  
Solicitor for the Appellant/  
Applicant.

21613

**C (ii) *State v. Vandi Johnson***

## SUMMING UP

The charge against the  
accid is as follows -  
Statement of Offence  
Murder Contrary to Law

### Particulars of Offence

Vandi Johnson on the 21st  
day of July, 2002 at Tongo  
Fields in the Eastern Province  
of Sierra Leone murdered  
Sene Kamara.

Foreman, Members of the  
Jury this trial is Criminal  
for which the burden is on  
the prosecution to prove the  
guilt of the accid beyond  
reasonable doubt. Where  
the pros succeeds the accid  
must be found guilty and  
convicted. Where the pros  
fails on the basis of the  
evidence led the accid  
must be found not guilty and  
acquitted and discharged;  
Similarly if a reasonable  
doubt is created on the  
evidence led the doubt must  
be resolved in favour of the  
accid and he must be  
acquitted and discharged

The accused is here charged with Murder. What is Murder in law? Murder is defined thus: "where a person of sound memory and discretion unlawfully kills any reasonable creature in being and under the President's peace with Malice aforethought either express or implied with death following within a year and a day." In order to amount to Murder the killing must be done with Malice aforethought and aforethought here does not mean premeditation but rather it implies foresight that death would or might be caused. Malice here can be either express or implied. "Express Malice" may be said to mean either of the following states of mind preceding or co-existing with the act or omission by which death is caused and it may exist even where the act is ~~not~~ unpremeditated - (a) An intention to ~~kill~~ cause death of, or grievous bodily harm to any person whether such person is the person actually killed

or not; (b) Knowledge that the act which causes ~~the~~ the death of, or grievous bodily harm to, some person, whether such person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused.

"Implied Malice" occurs where no express malice is shown or openly indicated the law will imply it from a deliberate cruel act committed by one person against another it may be implied where death occurs as a result of a voluntary act of the accused which is (i) unintentional and (ii) unprovoked

Malice aforethought in law therefore means an intention to kill or an intention to cause grievous bodily harm. Member of the jury the evidence as it is reviewed will reveal the intentions of the accused which will be proved as it unfolds.

The pros must prove —

(a) The death of the deceased  
Sone Kamara.

(b) That it was the acts and

emissions of the a/cd that caused the death of Sorie Kamara the deceased;

- (c) Malice aforethought as already explained earlier;
- (d) That Sorie Kamara the deceased died within a year and a day.

What evidence did the a/cd lead to prove its case against the a/cd beyond reasonable doubt? If the evidence is briefly reviewed this can be answered. ~~As~~ According to P.W. Mohamed Bangura he stated that he recognises the a/cd and recalls 21/7/02. He knows Sorie Kamara at his friends place where they were seated together. Later he ~~them~~ and went to his business place at the market. Later the sister of the deceased came and called him telling him that he was fighting with the a/cd. He went there and met them on the fight. He tried to separate them in which case they succeeded in separating them. They then went their separate ways. He was trying to collect the goods they scattered

whilst fighting on the table. Whilst looking he saw the accused collect a stick which he used to hit the late Serie Kamara on his head. The stick had a nail on it. The late Serie Kamara fell to the ground and shouted in Krio: "A you don Kill me". The accused wanted to run away but he was held. The late Serie Kamara became unconscious with blood flowing from the head. The accused was arrested and taken to Tongo Police Station where a report was made. He was given a medical report and they took late Serie Kamara to the Kenema Govt. Hospital where he was admitted. Later he died and was buried at the Kenema Cemetery. He later identified a stick with a nail which the accused used to hit the deceased. On xxi he said he was not present when the fight started and it was one Panta that went to call him. That it was when he raised his head that he saw the accused hit the deceased on his head and that he was about 5 to 6 ft. when he saw

the accid hit the deceased on the head. He cannot tell from where the accid got the stick. The accid wanted to run away but he was held.

Dr. David Fatta Sesay a medical officer attached to the Kenema Genl. Hospital who narrated his duties. He recalls 21/7/02 when he performed a post mortem examination on the corpse of a man he cannot now recollect the name. He tendered his report as Exh. A. By deep laceration he meant a big wound caused by a sharp object and the consequences of such a wound on the skull is that it will cause blood to enter the brain resulting in death. Necrotic is when the tissues have become black and this is as a result of the sharp object which poisons the blood and the tissues become black. Pierced is a slight opening into the body which may be caused by a nail and this was found on the skull. The brain damage was due to contusion on the brain and this stops its functions. As



soon as the brain stops functioning it results in death and since the brain cannot send messages to the heart there is cardiac failure resulting in death.

Patrick Kobba DPC 2146 narrated how he received a case and Enquiry file from Tongo Police Station including a stick with a nail attached to it. He also received an information that Sorie Kalmara has died at the Kenema Govt Hospital on 22/7/02. He tendered in evidence the Voluntary Confession Statement of the accused as Exh. B, an additional Voluntary Confession Statement of the accused as Exh. C and the charged statement of the accused as Exh. D.

Alfred Paul Michael Sandy tendered a stick with a nail attached to it as Exh. E. At this stage the pres closed its case and the accused relied on his statements to the police (Exhs B and C) as his defence and called no witnesses which is his right.

At this stage let me

Let me remind you again that it is for the pros to prove the guilt of the a/cd beyond reasonable doubt. Where they succeed the a/cd must be found guilty, where they fail the a/cd must be found not guilty and acquitted and discharged; Similarly where there is a reasonable not firmy doubt is created on the basis of the evidence it must be resolved in favour of the a/cd and he must be acquitted and discharged. The State - of the a/cd (Exhs C and D) on which the a/cd has relied is also part of the case for the pros. I shall read very carefully these two statements of the a/cd. I shall read it very slowly.

The a/cd in his statement spoke of a fighting between himself and the deceased, and there is a law on fighting for which the a/cd should be found guilty of the alternative of Manslaughter but the condition is that there must be no cooling

G.P. O/8/2000/30.000/1.2000.

period during the fight. In the case of the accused the evidence of P.W. was that they were separated with the accused going his way and the deceased his own way when the accused then later took a stick and hit the deceased on the head. The accused in using the stick to hit the deceased is a cruel act from which implied malice can be implied.

foreman, members of the jury you have heard the evidence and I have ever read the statements of the accused which is his defence. It is for you as reasonable men and women to now consider your verdict.

Jury Retires at 11.10 a.m.

Jury Returns at 11.25 a.m.

VERDICT

UNANIMOUSLY GUILTY OF  
MURDER

Ms. Martyn in mitigation that the penalty is fixed by

law and cannot say much  
in mitigation.

~~Sentence~~

1. ~~Death by hanging~~

~~Per annum~~

21624

**C (iii) *State v. Tommy M'Bayoh & 3 Others***

VS.

TOMMY M'BAYOH & 3 OTHERS

JUDGMENT/SUMMING UP

21625

The accused persons are charged as follows:-

5.

STATEMENT OF OFFENCE

MURDER

PARTICULARS OF OFFENCE

10.

TOMMY M'BAYOH, TUA CHARLEY, PIEH YENGEH and JONES BATTOR on the 24th day of November, 1998 at Bakie in the Couthern Province of Sierra Leone murdered KONI JARTU KPANA.

15.

Foreman and members of the Jury the charge of the accused persons has been read over to you to which they pleaded not Guilty and it is my duty to remind you that you are the judges of facts and I am the judge of the law and it is my duty to direct you on the law whilst you as judges of the facts must carefully listen as I narate the facts to you in due course.

20.

In the same vain it is my duty to remind you that all you are concerned with is the evidence as led in this court and not on what you may have heard outside this court and this must in no way affect the verdict you may have to return against each of the accused persons.

25.

Let me hasten to remind you that the burden of proving the guilt of each accused persons rests on the prosecution to prove it beyond reasonable doubt. not on a flimsy doubt and it is not the duty of the accused person to prove their innocence since the burden of proof throughout rest on the shoulders of the prosecution.

30.

On this question of burden of proof and standard of proof I hope to direct you further in this my summing up.

- The offence of Murder is defined thus - Murder is defined or described by Lord Coke thus "Where a person of sound memory and discretion unlawfully killeth, ~~and~~ reasonable creature in being and under the President's peace with Malice aforethought, either express or implied, the death following within a year and a day. Murder must be committed by a person of sound memory and discretion. It cannot be committed by an idiot, lunatic or infant. The accused in this case is presumed to be a man of sound memory as he is not an idiot lunatic or an infant.
- 5.
10. The deceased must be under the peace of the President of Sierra Leone and from the evidence there is nothing contrary shown to this court. It must be done with malice aforethought which must be expressed or implied. Malice in this case does not mean malice in the sense of not being in talking terms. Malice in the law of murder is totally different and to amount to murder the killing must be committed with malice aforethought.
15. "Aforethought" here does not mean premeditation but rather implies forethought that death would or might be caused. Malice is either expressed or implied.
20. Express malice may be said to mean either of the following states of mind preceding or co-existing with the act or omission by which death is caused and it may exist where the act is unpremeditated:-
- (a) An intention to cause death of, or grievous bodily harm to, any person, whether such person is the person actually killed or not.
25. (b) Knowledge that the act which cause death of, or grievous bodily harm to, some person, whether such person is the person actually killed or not although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused.
- 30.

Malice is where no malice is expressed or openly indicated, the law will imply it from a deliberate cruel act committed by one person against another. It may be implied where death occurs as the result of a voluntary act of the accused persons which was (i)

5. intentional or (ii) unprovoked.

Let me remind you that the expression "Malice aforethought" is an intention to kill or an intention to cause grievous bodily harm and not malice as used in the ordinary common sense.

10. It is the evidence that you must carefully look into in order to arrive at a reasonable and sound decision. In this regard therefore I shall very briefly review the entire evidence led by the prosecution and the defence.

P.S.1 Yema Tiengay stated that Koni Jartu Kpana is her mother and recognise all four accused persons.

15. On 24.11.98 she left her mother at home and went to remove weed from their cassava farm and on her return she did not meet her mother. She then went by the river side to call her since she thought she had gone to collect water. She then informed her sister Mary that she did not see their mother. Mary and herself then went into the bush to search for their mother but did not see her. They then went by a road where they met her clothes on top of a stick by the road.

20. She then came to the Town Chief and made a report. The chief is called Kpana. She narrated to him that she left her mother at home and came later but she <sup>was</sup> not in and on searching she saw her dress on a tree by the road side. The chief then collected some people to go in search of her mother. They searched but did not see and later got an information that she was seen around the beach.

25. 30.



It was the Kamajors who brought this information.

5. She went with the Kamajors and identified her as her mother. At the time she saw her she was dead with the tongue cut off, the breast was missing, the two knee caps were removed and her private parts were missing. The chiefs were then informed and the Kamajors took the body to the town and they were later taken to the Bontho Police station where she made a statement.

10. Mary Sesay (P.W.2) stated that she knows Koni Jartu Kpana who is her mother but is now dead. She recognises all accused and recalls 24.11.98 when in the morning on the beach which is far from the town. Before going to fish she left her mother Koni Jartu Kpana on the veranda of their house. She left her together with the 1st accused. She came in the evening but did not see her mother. The 1st accused was in the house. She asked her sister (P.W.1) about their mother but she was told she has not seen her she told her they should search for her in the bush as she likes to collect wood in the bush. They searched but did not see her. They reported to the Town Chief that they have not seen their mother. The Town Chief alarmed that nobody should go out. They then searched but did not see her. Later they were informed that she has been seen around the beach by Kamajors. They were later called to see her. They went and found her dead with some parts of the body missing such as the breast, the knee caps the private parts. They then sent for the Paramount Chief to come and see. He came and saw the body. The Paramount Chief then took them to Bontho Police Station where she made a statement. The corpse was later handed over to them for burial. She said she knows Sirbeh Atta who was around when the incident took place and was also taken to Bontho and he was left in cells when they returned and since that time she has not seen him nor knows his whereabouts.

30.

He answer so Izd she said she was put in cells because she was asked where was she when her mother escaped from her. She went fishing that day and 1st accused was with her. On her return the 1st accused was at home.

5. She did not ask the 1st accused about her mother.

I Reaxd she said she was never charged to court. That 1st accused told her he was in the house and can't tell where their mother went to.

Abdul Sesay (P.M.3) stated that he knows Koni Jartu Kpana who is now dead.

10. He recognises all accused persons and recalls 24.11.98.

In the morning he went out fishing with his brothers. They got no fish and so came home and one Pa ansu who is his father and Town Chief called him and told him there was a problem. He told him Koni Jartu Kpana went out to the bush and has not been seen and so asked

15. him to help search for her. They left and when he got by the beach he then went to toilet by the beach which is partly sandy and bushy. After he finished he saw 1st accused coming and running towards him with a cutlass. He then took cover and on getting towards him he got out and greeted him but he did not answer.

20. The cutlass he saw with 1st accused had blood on it while blood was on the handle.

He never said anything to him when he said he would pay him same money not to say he saw him with a cutlass with blood on it.

25. He said he would give him Le3,000.00. When he saw him with the blood on the cutlass he asked him but he told him not to ask him. He then told him that he will report in town that he saw him with a cutlass with blood on it. He begged him not to report in town and it was at this time he promised him Le3,000.00 but he told him he would not accept it and would report. He came to town and told his fellow

30.

Kamajors that he saw the 1st accused with a cutlass with blood on it and that he offered him Le3000.000. He then told them that the 1st accused is a bad man and should be arrested and taken to the authorities. They were taken to the Chief and later to Bonthe

5. Police Station where he made a statement. At the time he saw the 1st accused on he was cutting the flesh of the woman Koni Jartu Kpana but he did not see him. In answer to Xrd he said that at the time he saw the 1st accused he was cutting the flesh of the woman Koni Jartu Kpana. He went out fishing the whole day and came home
10. in the evening.

When he came home from fishing his father told him about the problem in the village. The chief did tell them not to go out.

- A team of search party was arranged and they were many. His party went by the sea. He came home from fishing at about 5.30 p.m. and
15. they went out in search at about 7.30 p.m. They were showing the name of the woman one by one and there was no noise. The beach is a long stretch and there were a lot of trees around. He went to the toilet inside the bush alone whilst the rest of the party went ahead. The 1st accused was running along the beach. The search party went
20. along the bush whilst he was in the toilet.

That it is true when he saw 1st accused coming he took cover.

- When the 1st accused passed him he called him and was now alone with the 1st accused. It was dark and he was about 60 yards away from 1st accused and it was this distance he saw the blood on the cutlass.
25. He said it is possible for him to see the blood. The 1st accused told him he had killed a human being. It was at this distance he offered him the Le3000.00. It was after the search party that he went to the village. That he is saying the truth.

In ReXxd he said he saw the accused cut the forehead, the elbow, the breast, the Knee and the leg. At the time he was with 1st accused it was dark but not too dark and at that time he could see for a distance of 60 yards.

5. P.W.4 Samuel Goerge Kain Ngabay III who is the Paramount Chief of Ndiana Chiefdom, Bonthe District stated he knows Koni Jartu Kpana now dead and recognises all accused persons. He recalls 24.11.98. He narrated that he was in Bo and got on to his place at Tisama when he received a call from Bakai Town from the Section Chief and the Kamajors. He went there and the section chief told him that one Koni Jartu Kpana was missing and when they searched her body was seen by the beach near the ocean. They went there with the Town Chief, Section Chief and the Kamajors and saw the woman by the beach already dead. He saw her wounded. She was wounded by the knee, 15. a wound by the bobby, a cut by the left ear. Konie is a woman. He saw a wound by her private part. He then tried to investigate. He enquired from 1st, 2nd, 3rd and 4th accused and put series of questions to them to which they all replied. Following their various 20. answer they were taken to Bonthe Police Station for further investigations and then made a statement. He know Sorbeh Katta very well and he was there during the incident. He did not investigate him and can't now tell his whereabouts. He is not at Barkai and has not seen him.
25.            said  
In Xxd he            he investigated the accused persons before he took them to the police station. He took them there for further investigations.

30. P.W.4 was recalled by the State Counsel and stated that he did fuerher investigations as regards the 1st accused in the presence of some Kamajors and told him he got an information that he killed the

woman who is his mother in law. He asked him the question who told  
 you and he replied that it was his friends who found him dragging a  
 boat to where the body was found. He further asked him about the boat  
 he drove that night but he replied No at first. He then told him  
 5. that 2nd accused saw him and he then answered that he did so. He  
 then put it to him that since he drag the boat to where the body was  
 found he knew about the death. He answered carelessly that if they  
 said he killed the woman then he cannot deny. He asked him to view  
 the body which he did and then shook his head.

10. He asked why he shook his head but he never said anything. He  
 stated that when he answered him carelessly he knew that he killed  
 the woman.

At this stage on an application by the State Counsel the 4th  
 accused was then acquitted and discharged. He was then called by the  
 15. prosecution as P.W.5. I shall in this summing up direct you in one  
 course what position this witness must be viewed by you.

He stated he knows Koni Jartu Kpana now dead. That on 24.11.98  
 he was at Barkie in the morning hours and went out to sea and came in  
 the evening. The 1st accused then called on him and asked him to  
 20. follow him. He asked where? He then went with him and met the 2nd  
 and 3rd accused in the bush. On entering the bush he saw an old  
 Woman seating. The 1st accused took a stick and hit her and he  
 shouted. He told him after the shout it must stop there. The  
 woman later died. After she died the 1st accused took a knife from  
 25. his pocket and cut under the breast. He later cut the forehead, the  
 knees and the private parts. He told 1st accused he had done bad.  
 The 1st accused told him that if he says it in town he will lie just  
 like the old woman.

The old woman is Koni Jartu Kpana. The 2nd and 3rd accused did not touch her but they stood by. He then left and went to town. On his arrival the town chief raised an alarm that Koni Jartu Kpana went to the bush to get wood and has not been seen but she was later seen

5. at the beach. The children were called and they later identified the body. P.W.4 the Paramount Chief then invited them to Bonthe. He was afraid to say it in Bonthe because the 1st accused told him he would kill him. He did make a statement to the police.

George Ngegbai (P.W.6) who is Det P/Sgt792 stated that he was on

10. duty when he received a report of the murder of Koni Jartu Kpana from P.W.4 the Paramount Chief who came with the corpse and the accused persons. He took over the investigation and issued a post mortem request form to the District Medical Officer. Dr. T.T. Samba who has gone abroad and cannot tell his whereabouts. A post mortem was done

15. by the Doctor in his presence and that of the accused persons.

He tendered in evidence the voluntary cautioned statements of the accused persons as Exhs. A, B and C. He also tendered the charged statements of all accused as Exhs. D, E and F.

The State Counsel M.M. Sesay Esq then tendered the Committal

20. Warrant in respect of all the accused persons as Exhs G1, 2 and 3 and then made an application under section 148 (1) C.P.A. 1965 (Act No.32 of 1965) to delete witness No.4 Sorbah Katta from the back of the indictment which application was granted.

The prosecution then closed its case and each accused then

25. elected to make an unsworn statement from the dock. The 1st accused stated that he knows the deceased who is his mother in law and stated that he has heard all what was said in court in the evidence led and that he did make a statement to the police and told the C.I.D.

that the deceased went out to look for wood and that Tiangay went to look for cassava and came back later and asked for her mother. He replied he does not know where she has gone to. She then asked their small child whether she can tell whether their mother went to and she replied

5. that she has gone in search of wood and whenever she goes for wood she does not stay too long. He went on to say that where the clothes (dress) of the woman was found was done by a socerer. He was then implicated and they came to Bonthe where he told the police he knew nothing about it,

The 2nd and 3rd accused now stated they wish to rely on their

10. statements they made to the police which were tendered in court and are calling no witnesses.

The defence then closed its case and we then proceeded to address.

Foreman and members of the Jury let me again remind you that as judges of facts it is the duty of the prosecution to prove its case

15. beyond reasonable doubt and not for the accused persons to prove their innocence. Where the prosecution does succeed the accused persons must be found guilty and convicted; where the prosecution fails the accused persons must be found not guilty and acquitted and discharged; similarly where there is a reasonable doubt created on the basis of the

20. evidence so led it must be resolved in favour of the accused on whom that doubt falls.

However despite all these rules the version of each accused person ought to be considered in order to arrive at a sound and reasonable conclusion.

25. The 1st accused in his statement from the dock denied killing the deceased Koni Jartu Kpana and similarly in his statement to the police still denied killing the deceased.

The 2nd accused in his statement denied killing the deceased but went on to say he was present when 1st accused hit the deceased until she

30. died and removed some parts from the body whilst he stood by and did

nothing and did not even touch the accused.

21635

The 3rd accused too in his statement gave a similar narration as that of the 2nd accused.

- The 2nd and 3rd accused must be carefully considered as the
5. evidence against them does not reveal the charge of murder against them and I must so direct you. Secondly there raises this issue of a common design but if one looks at the evidence there is no proof of a common design but if one looks at the evidence there is no proof of a common design. The charge that would have been brought against them is that
10. being an accessory to the fact of murder and this is not an alternative to the charge of murder.

Counsel for the State M.M. Sosay Esq., rightly did admit that he has not led evidence against the 2nd and 3rd accused and I will direct that you acquit and discharge them.

15. As regards the 1st accused Foreman and Members of the Jury, the evidence of the prosecution witnesses which I have reviewed has one on which I must carefully direct you on and that is the evidence of P.W.5 who is in law an accomplice. It is my duty to inform you that you may conviction on the evidence of such an accomplice.

20. However the law requires that a conviction based on the evidence of such an accomplice is completely unsafe. There must be what the law calls "Corroboration" i.e. an independent evidence supporting the evidence of the accomplice i.e. P.W.5 in some material particular.

- The evidence need not be totally the same in all respects but that
25. it can be shown to be so in some material areas. The evidence of P.W.3 who said he saw 1st accused cutting parts of the deceased and also said he saw 1st accused who ran towards him with a blood stained machet which is the blood of Koni Jartu Kpnana. Even the admissions of the accused can amount to corroboration.



The evidence of P.W.3 and P.W.4 are independent evidence with corroboration in some material particulars to the evidence of P.W.5.

Foreman and Members of the Jury I must also direct you on the fact that there was no medical report tendered as to the cause of death.

- 5. Let me hasten to warn you that the medical report does not disclose who caused the death i.e. any of the accused persons but as to the cause of death of the deceased person in this case Koni Jartu Kpana.

- 10. It is my duty to inform you that on a charge of Murder the fact of death can be proved by circumstantial evidence notwithstanding that neither the body nor any trace of the body can be found and the accused has even made no confession as to his participation in the act. It is clear that death was proved by the prosecution in circumstances which makes its commission certain as in this case very convincing. The absence of a death certificate does not create any differences as to the fact that death of Koni Jartu Kpana did occur when the evidence of P.W.3, P.W.4 and P.W.5 are carefully considered.

Foreman, Members of the Jury, you may now retire and consider your verdict.

VERDICT

- 20. Murder: Unanimously Guilty
- Miss. C. Martyn in mitigation that she has nothing to say as sentence is fixed by law.
- Allocutus: Accused begs for mercy
- Sentence: Death by hanging
- 25. Court: Accused informed of his right to appeal within 21 days
- Court: All the jurors are discharged.

(Sgd) P.O. Hamilton, J.

21637

**C (iv) *State v. Aiah Musa Mommoni*, High Court of Sierra Leone,  
3 June 2004**

*Prosecutor v. Fofana, Kondewa, SCSL-04-14-T*

IN THE HIGH COURT OF SIERRA LEONE  
Holden at Freetown  
Criminal Division

STATE

v

AIAH MUSA MOMMONI

JUDGMENT

Corum Shuster J

Miss Palmer Prosecuting Counsel

Mr. H. H. Sandy Defence Counsel

1. The accused was charged with an offence alleging on 13th March 2003, at Freetown in the Western Area of Sierra Leone, he unlawfully and carnally knew **Aminata Bah a child under 13 years of age to wit 9**. He first appeared in the Freetown Magistrates Court on the 21st March 2003. On that date the complainant was also present in Court. The Magistrate adjourned the case to the 23rd March 2003 for a preliminary enquiry, and remanded the defendant in custody.
2. **The brief facts** On the date in question, the complainant alleges the accused forced her to have Unlawful Carnal Knowledge in his room. Her mother PW1 came into the Accused's home and found the child, still in the room lying on his bed, she had blood and semen visible on her vagina. On being discovered the accused wanted to sort the matter out, then and there. There was a confrontation between PW1 and the accused. The matter was reported to the police. The accused was arrested, he denied the offence. The child stated to the police and this court she was gagged by the accused, to prevent her screaming, which allegation, if proved is in my view an aggravating feature in such a case, because it is an inherently dangerous act, to gag a young child during the course of a felony.
3. On 3rd April 2003 the accused again appeared in the Freetown Magistrate's Court, appearing from custody. The Magistrate commenced a Preliminary enquiry into the matter as required by law. He recorded the unsworn evidence of the complainant by way of deposition evidence. Deposition evidence given in the

lower court is extremely important, as it forms the basis of a initial charge preferred by the police and, the charge with which the accused was committed to stand his trial. The offence of UCK, is contrary to section 6 of the Prevention of Cruelty to Children Act Cap 31 of the Laws of Sierra Leone 1960 as amended. The charge carries a maximum sentence of 15 years imprisonment upon conviction.

4. On subsequent dates the Magistrate continued with his Preliminary enquiry. The Accused was committed to stand trial in the High Court on the 2nd May 2003. I note from the Magistrate's Court record there were eight [8] adjournments in the lower court from the time of arrest, to the date of subsequent Committal. In my view it is high time a much more speedy system of transfer of child abuse cases to the High Court from the Magistrate's Court is introduced in this country; in order to expedite Child Abuse hearings, and provide a defendant with a speedy trial as is required by the terms of the Constitution of the Republic of Sierra Leone. This would be in the interest of justice to all the parties in sensitive cases of Child Abuse. Justice delayed is not justice at all, in my respectful view.
5. I note, from perusing the lower court's Deposition records that on the 3rd April 2003 the Magistrate failed to record an entry on the court record as to whether he questioned the child, if she knew the importance of telling the truth in Preliminary Court Proceedings. Such **enquiry must of necessity be fully recorded in writing on the face of the deposition** and, be certified by the Magistrate [or JP] in **ANY future cases of sexual abuse**, involving young children. It would also be very sensible for a Magistrate/JP to include a Piggott warning to a young child in order to protect all parties in sexual abuse cases.
6. On 15th March 2004 the Attorney General's Department prepared an indictment against the accused, alleging a single count of Unlawful Carnal knowledge against the accused. The accused appeared in the High Court on the 25<sup>th</sup> March 2004 having failed to appear on the 22nd March when his case was originally called and after he had been served with a copy of the Indictment. On 25th March 2004 he was arraigned, he pleaded not guilty to the charge of Unlawful Carnal Knowledge, as is his right. He has been kept in custody since that date in view of the nature and seriousness of the offence.
7. Unlawful Carnal Knowledge is an offence contrary to section 6 of the Prevention of Cruelty to Children's Act Cap 31 of the Laws of Sierra Leone 1960 on conviction it carries a maximum sentence of 15 years imprisonment. At the conclusion of a trial for Unlawful Carnal Knowledge a court may as an alternative verdict, convict an accused person of Indecent Assault. Indecent Assault remains an alternative verdict to a charge of Unlawful Carnal Knowledge in this, and in many other Common Law jurisdictions.
8. In accordance with my duty, and as required by law, I remind myself an accused is innocent until he is proven guilty, beyond any reasonable doubt, so that I am

sure he committed the crime with which he is charged. The accused does not have to prove anything in his defence.

9. I heard evidence from a number of witnesses for the Prosecution during the course of this trial. I heard detailed medical evidence from Doctor Matilda King. I have studied all the exhibits and re read the unsworn statement of the Accused. I have re read my notes, consulted case law and, the writers of Archbold in coming to my judgment. For the record any Crime of Unlawful Carnal Knowledge is serious, more particularly so if the offence is alleged to have been committed against a child of tender years. The age of the child is important as is alleged the child was 9 years of age at the date of this allegation. **Unlawful Carnal Knowledge** [in layman's terms] is unlawful sexual intercourse without consent i.e. when a man places his penis into a woman [or girls] vagina without her consent. There does not have to be full penetration of her vagina, neither does there need to be proof of the emission of seed and as previously stated if UCK is not proved an accused can still be convicted of the crime of Indecent Assault.
10. To prove the elements of the offence of Indecent Assault [Alternative Charge] the prosecution needs to prove there was an assault, which was accompanied or surrounded by an indecent act. Indecent may be defined as being overtly sexual. It is trite law that if a man inserts his finger into the vagina of a woman or girl without consent that is indecent assault. In the case of **Rolfe Lord Goddard CJ** said in delivering the Judgment of the court. "An assault can be committed without touching a person. One always thinks about an assault as the giving of a blow to somebody, but that is not necessary. An assault may be constituted by a threat, or a hostile act. So if a man exposes himself and then walks towards a woman making any gesture he could be convicted of indecent assault." In other words the Chief Justice said indecent assault covers a wide range of acts, it is for a court to decide on hearing the evidence what constituted the indecent act.
11. **The Issue of Consent**. In law a child aged nine years cannot consent to an act of Unlawful Carnal Knowledge or Indecent assault. **Finding**. I find as a fact, upon hearing the evidence of the complainant, her mother and upon listening to the Doctor that; Aminata Bah at the time of this alleged offence was a female person, moreover she is a child; and further that she was aged Nine years, on the 13th March 2003 when this crime was alleged.
12. **Corroboration**. In order to convict a person of the crime of Indecent assault, or any other sexual crime, the court requires corroboration, in other words the court must look at some corroboration of the evidence of the complainant, and a judge [or jury] must be warned of the danger of acting without it [corroboration] This is true in all cases of sexual offences irrespective of the age, or the sex of the complainant or other party involved. This is so even if the only issue is that of the identity of the person alleged to have committed the offence. **R v Gammon 1959 43 CAR** evidence of a complaint made by a girl or a woman made shortly afterwards in a sexual case is not in law corroboration, since it did not come from

an independent source. *R v Evans 1925 18 CAR*. In a charge of Unlawful Carnal Knowledge as is alleged here, the corroborative evidence **must confirm** in some material particular that intercourse has taken place, and, that it took place without the woman's consent, and also that it was the man charged who committed the crime. *Jones v R 1971 55 CAR 299*.

13. **Medical evidence.** Medical evidence is capable of corroborating an allegation of Unlawful Carnal Knowledge, this because it is independent evidence gathered by another; and is given by an independent source in court. Dr. Matilda King a child abuse specialist gave evidence that she examined the victim she produced a medical form **EXH. A1-3** to the court. Doctor King examined the alleged victim on the 13<sup>th</sup> March 2003 [the same day as the alleged offence] she described her examination of the child as follows. She indicated the Childs private parts were difficult to examine due to prolapsed tissue and bleeding. The child's vulva was normal, with some bloodstains and something else, semen. The enteritis and hymen [the tissue which covers the hymen] were swollen and prolapsed. She testified the hymen was ruptured outwards from the centre, going towards the outer wall. The main part of the ruptured hymen pointed downwards. It was very painful for the child. She indicated the rupture of the hymen was in the 7 o'clock positions. She described the injury as a typical injury due to a blunt instrument; in this case the Doctor used the words "a penis." The Doctor went on to say the injury to the vagina; that is the anterior vaginal wall was also typical of an injury involving a blunt forced object a penis. The Doctor was cross-examined by the accused who suggested she was not there. The court takes note of the fact the child showed no other physical signs of injury on her person.
14. **The Childs evidence.** The child, Aminata Bah impressed me in the way she gave unsworn evidence in the High Court. It can never be easy for any young child or person to come to court and describe in detail what may have happened to her many months after an event. The child testified the accused took her into his room on the date in question, undressed her and put his penis [private] right inside her. She testified she was shouting and so the accused put a sponge inside her mouth. She testified the accused went up and down on her, with him inside her. If accepted this is clear evidence of the performance of the sex act. The child maintained her allegation despite cross-examination, and she impressed me as a witness who told me the truth. At the start of her evidence she was given a Piggott warning by me. I was fully satisfied she knew the difference between right and wrong and that she knew the importance of telling the truth in court. **Findings.** I believe the child when she told me she was taken into her uncles room, put on the bed and was undressed by her uncle. I believe her when she told me the accused put his penis into her vagina, and had UCK with her. I find as a fact the child was gagged by her uncle to prevent her from screaming. She told me she was screaming when he was on top of her and I believe her. I believe her when she told me she saw blood on her vagina and white stuff. [Semen]
15. **Early complaint.** It is often the case that a young child who might be

traumatised or frightened in some way or other will not find it easy to tell other people what happened; or, they might delay doing so; perhaps this is because of fear, or guilt on their behalf. The evidence in this trial reveals the child told her mother and the authorities immediately what she said had happened in the presence of the accused, her uncle. It is the child's testimony in court, which concerns me in this case, and will lead me to find either the guilt or innocence of the accused. **Finding.** I find as a fact the child [with her mother] made an early complaint of sexual assault to the police by the child's uncle. They attended a clinic the same day the 13<sup>th</sup> March 2003 for medical treatment at the Rainbow Centre.

16. **Identification.** The victim and the child's mother identified and recognised the accused as her **UNCLE** and as someone who lived in the same compound as her. They knew him. She recognised him and named him. She told me it was the accused assaulted her on the date in question. **Finding** In this trial the victim clearly identified Aiah Musa Momoni as the defendant in this case and she knew him as her uncle. In accordance with my duty to the court, I certify I have reminded myself of the dangers surrounding Identification evidence. I take into account the well-established Turnbull guidelines and apply them in this case in arriving at my judgment. This is a case of both identification and recognition evidence.
17. **Conclusion.** I have listened carefully to all the evidence. I reviewed the contents of the Deposition from the lower court and looked at all the Exhibits in this case. The child always maintained her uncle the accused had Unlawful Carnal Knowledge with her on the 13th March 2003. There is very scant reporting of the evidence contained in the Magistrates Court's Depositions taken over a year ago. I certify I believe the child when she told me in testimony in the High Court that the accused took her to his room, that he undressed her and put his penis into her vagina. I believe the child when she told me that he went up and down on top of her. In my view that evidence, or explanation can only lead me to the inevitable conclusion, the accused was committing an unlawful sexual act towards the child [i.e.] he was committing Unlawful Carnal Knowledge with her. I believe the child when she told me he put a sponge in her mouth, to stop her screaming. I believe her when she told me she struggled with him on top of her. Medical evidence observed on the same day as the allegation, corroborates the victim's allegation and complaint of Unlawful Carnal Knowledge. The other evidence which also corroborates the child's version of events is the evidence of PW1 her mother, who gave evidence of the presence of blood and semen on the child's private parts legs and thighs, which she observed at the locus in quo. PW1's evidence corroborates the child's unsworn evidence. I can find no reason to disbelieve PW1 in any way shape or form. Upon hearing the evidence of Doctor King, and on listening to the evidence of the child, and after reviewing the medical report; **EXHIBIT A1-3.** I find as a fact the Medical evidence given by Dr King fully supports the allegation the accused unlawfully and carnally knew PW4. [A child aged 9] Medical evidence is capable of corroborating the child's victim's story, as it is independent

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evidence. Medical evidence reveals tearing of the child's hymen in the 7 o'clock positions. That tear was described by the Doctor as the sign of a typical rape injury. It is clear to me, primarily because I accept the doctor's evidence; that the child's hymen was ruptured by a penis and in this case it was the penis of the child's uncle, the accused. The medical evidence clearly corroborates the Child's version. The injuries are serious to this young child. I fully accept the evidence of the complainant Aminata Bah. I reject the unsworn evidence of the defendant. I convict the accused of the crime of Unlawful Carnal Knowledge with a child aged 9 years. The prosecution has proved its case beyond any reasonable doubt; so that I am sure the accused committed this offence. **Accordingly I find the accused Guilty as Charged.**



**Shuster J**  
**Judge of the High Court for Criminal Cases**  
**Freetown**  
**June 3rd 2004**



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IN THE HIGH COURT OF SIERRA LEONE  
Holden at Freetown  
Criminal Division

STATE

v

AIAH MUSA MOMMONI

SENTENCE

Corum Shuster J  
Miss Palmer Prosecuting Counsel  
Mr. H. H. Sandy Defence Counsel

1. The accused was charged with an offence alleging on 13th March 2003, at Freetown in the Western Area of Sierra Leone, he unlawfully and carnally knew **Aminata Bah a child under 13 years of age to wit 9**. He was convicted of the crime of UCK on what can only be described as overwhelming evidence.
2. I heard his mitigation. There was no excuse for what this man did. He was the child's uncle; as such he was in a position of trust towards her. He is also much older than she is in other words there is a wide disparity of age between them. The evidence reveals the accused lured the child into his room and had UCK with her. On being discovered he wanted to settle the matter when confronted by the child's mother. Of significant concern is the fact he also gagged the child's mouth to prevent her from screaming, that in my view is an inherently dangerous act and deserves a tough deterrent sentence.
3. There needs to be sent a clear message to everyone in this country, you do not abuse any child. This is what this case is all about; a clear case of child abuse of the worst kind. Sierra Leone was the seventh signatory to the Convention of the Rights of the Child. My court will always protect the Rights of Children. I sentence the accused to 15 years in prison. He is lucky that the State did not charge him with the crime of rape because if they had done so, he would have gone to prison for much longer. any time he spent on remand is to be counted towards his sentence



Shuster J  
Judge of the High Court for Criminal Cases  
Freetown  
June 3rd 2004

21645.

**C (v) *State v. Hassan Mahoi*, High Court of Sierra Leone,  
8 November 2005**

*Prosecutor v. Fofana, Kondewa, SCSL-04-14-T*

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**IN THE HIGH COURT OF SIERRA LEONE**

Holden at Freetown  
Criminal Division

**STATE**

v

**HASSAN MAHOI**

**Coram**

**Shuster J**

Mr. G Soyeh Prosecuting Counsel

Mr. D J Thompson for the Accused

Judgment delivered orally on 8th November 2005

**JUDGMENT**

1. The accused was charged with three serious offences, of assault alleging that on 15<sup>th</sup> April 2003, at Freetown in the Western Area of Sierra Leone, [1] He unlawfully and maliciously wounded **KAIDIATU WESTON** with intent to do her grievous bodily harm, or [2] caused her grievous bodily harm. These two offences are contrary to section 18 of the Offences against the Persons Act 1861 and carry a penalty of life imprisonment, if convicted. There is a further alternate offence [3] of wounding, contrary to section 20 of the Offences against the Person Act 1861 which carries a penalty of five years imprisonment. These charges are extremely serious in nature and, if convicted the accused would inevitably receive a custodial sentence in accordance with current sentencing practices.

2. To prove the accused is guilty of one or more of the offences charged, the prosecution needs to prove that when the defendant did the act[s] alleged; he intended it, as the first two crimes of section 18 of the Offences against the Persons Act 1861 are crimes of specific intent. In other words the prosecution say the accused intended to either cause grievous bodily harm to Mrs Weston, or, that he wounded her and that he intended to do so. In this case the prosecution say the accused assaulted her unlawfully, by throwing a stone directly at her and; which the prosecution say hit the complainant on

her face. As a result the complainant suffered injuries, unfortunately the injury resulting in blindness in her right eye. That is the prosecution's allegation simply put. If it is true the accused picked up a stone and threw it at the complainant and caused the injuries described; then he is guilty as charged, as that would be an unlawful act of assault.

3 Grievous bodily harm means really serious bodily harm. It requires no further definition. GBH need not be permanent. The law says to constitute a wound the whole of the skin must be broken, that is to say there must be a wound to a person's body, and both the dermis and epidermis must be broken. The wound, or the grievous bodily harm must be done unlawfully and not be as a result of an accident. There is case law to say that blinding does not constitute a wound, but it is more likely than not if blindness is inflicted as is indicated here, by the accused's deliberate act of throwing of a stone at the victim, then the accused would be guilty of causing her Grievous Bodily Harm. i.e. really serious bodily harm, blindness.

4 In accordance with my duty, and as required by law, I remind myself the accused is innocent until he is proven guilty, beyond any reasonable doubt, so that I am sure he committed the crime with which he is charged. The accused does not have to prove anything in his defence. I heard evidence from a number of witnesses both for the Prosecution and the Defence during the course of this trial. I certify I have carefully read the detailed medical evidence for both the victim and the accused which is before me

5. I also confirm I have studied all the exhibits and read and re-read the unsworn statement of the Accused. I have read my notes, consulted case law and, the writers of Archbold in coming to this my judgment.

6. The issue in this case is whether this accused caused the injury as described by Mrs Weston [and her husband] when they testified on oath, and whether the accused did this act alleged unlawfully, and the stone throwing was not by itself an accident.

7. The Medical evidence is clear; it indicates there was a wound caused on the 15<sup>th</sup> April 2003 to Mrs Weston the complainant in this case. The medical report indicates she bled and she has also lost the sight in her eye and will be permanently blind in her right eye.

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8. I heard evidence from the victim that early that same day the accused and the complainant were at the Magistrates Court in Freetown, and they quarrelled as a result of a case before that court. On hearing the evidence I fully accept the complainant's version, that there was an altercation on the 15<sup>th</sup> April 2003, outside the Magistrates Court, and find as a fact that as a result of that altercation the complainant and her husband did not go straight home. I find as a fact they delayed going to Allen town until later that afternoon.

9. The defendant puts forward as his sole defence; the defence of alibi. The defendant says that he was not at the scene of the crime when it was said to have been committed on the 15th April 2003. As the prosecution has to prove his guilt so that I am sure of it and the accused does not have to prove he was elsewhere at the time. On the contrary the prosecution must disprove the alibi.

10. Even if I were to conclude the alibi was false that does not by itself entitle me to convict the defendant, it is only a matter which I might take into account. I am entitled to bear in mind that an alibi is sometimes invented to bolster a genuine defence. Per Archbold 2003 4-383 page 467.

11. I heard in detail the evidence of both the victim, and her husband, together with the accused and his partner DW2. If I prefer to believe the version of the complainant and her husband then accordingly I would have to reject the alibi defence of the accused and the testimony of DW2

12. In accordance with my duty I have directed myself that his case does depend to a certain extent on Identification evidence and accordingly I have reminded myself of the danger of convicting on Identification evidence alone. This case is stronger however because it also involves Recognition evidence if I accept the evidence of PW1 and PW2 that they identified and recognised the accused at the locus in quo who were long standing relatives.

13. R. v. Turnbull. The following guidelines, are to be observed by trial judges when "identity" is an issue, and which were laid down by the Court of Appeal (a full court) in R. v. Turnbull and others [1977] Q.B. 224 at 228-231, 63 Cr.App.R. 132 at 137-140. In the view of the court, they involved changes of practice, but not of law (see pp. 228, 137). "First, whenever the case against an accused depends wholly or substantially on the correctness of one or more identifications of the accused which the defence alleges to be

mistaken, the judge should warn the jury [or himself] of the special need for caution before convicting the accused in reliance on the correctness of the identification or identifications. In addition he should instruct them as to the reason for the need for such a warning and should make some reference to the possibility that a mistaken witness can be a convincing one and that a number of such witnesses can all be mistaken. Provided this is done in clear terms the judge need not use any particular form of words. I certify, I have directed myself accordingly.

14. Secondly, the judge should direct the jury to examine closely the circumstances in which the identification by each witness came to be made. How long did the witness have the accused under observation? At what distance? He must ask the question in what light? Was the observation impeded in any way, as for example, by passing traffic or a press of people? Had the witness ever seen the accused before? How often? How long elapsed between the original observation and the subsequent identification to the police? Finally, he should remind the jury of any specific weaknesses which had appeared in the identification evidence. I again certify I have done so.

15. This case also depends upon recognition evidence and who I care to believe. Recognition may be more reliable than identification of a stranger; but even when the witness is purporting to recognise someone whom he knows, the jury should be reminded that mistakes in recognition of close relatives and friends are sometimes made. All these matters go to the quality of identification evidence. If the quality is good and remains good at the close of the accused's case, the danger of a mistaken identification is lessened; but the poorer the quality, the greater the danger. Here however we are talking about close relatives.

16. Alibi witnesses can make genuine mistakes about dates and occasions, like any other witnesses can. It is only when the jury is satisfied that the sole reason for the fabrication was to deceive them and there is no other explanation for its being put forward can fabrication provide any support for identification evidence. The jury should be reminded that proving the accused has told lies about where he was at the material time does not by itself prove that he was where the identifying witness says he was

17. In *R. v. Tyler and others*, 96 Cr.App.R. 332, CA, it was said that identification by two witnesses carries more weight than by one alone. This,

it is submitted, is common sense: honest witnesses do not tend to make the same mistake, especially if the identification procedures (designed to provide a fair test) are properly carried out and there has been no opportunity for innocent contamination

18. In this case the parties had known each other for many years, or where the person identified was at the scene. Even here, it is advisable to alert the jury to the possibility of honest mistake and to the dangers, and the reasons why such dangers exist in identification evidence

19. Lies told by a defendant may provide support for identification evidence if the jury are satisfied that the lies are deliberate and relate to that issue. The jury must be given a direction along the general lines indicated in R. v. Lucas, 73 Cr.App.R. 159 at 162, CA: R. v. Goodway, 98 Cr.App.R. 11, CA, ante, § 4-402.

20. CONCLUSION.

I have carefully considered all the above facts before me in accordance with my duty. I find as a fact PW 1 and PW2 were honest witnesses who gave truthful and cogent evidence before this court, their evidence was unshaken in cross examination. I believe the version put forward by PW1 and PW2 in its entirety. I further accept on hearing their evidence that the complainant and her husband were present sometime in the late afternoon of that day, and I find as a fact that they were accosted by the accused and his sister in the street which is a public place in Allen Town. I find as a fact that on the date in question the accused picked up a stone and used it as a weapon which is an aggravating feature in any assault. I find as a fact the accused threw a stone intentionally at the person of Mrs Weston. I find as a fact the stone connected with her body. I find as a fact that the throwing of the stone was an unlawful act and that as a result of that unlawful action; Mrs Weston was blinded in her right eye.

21. The facts revealed the accused had a strong grudge against the complainant as he was involved in a long standing court case involving a property dispute in the Magistrates Court, with the complainant and her family. I do find as a fact abusive words were said outside the Freetown Magistrate's court, and the evidence reveals animosity and a grudge continued for the whole of that day, that is the 15th April 2003.

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22. In my view the evidence before this court is strong that the accused deliberately with premeditated malice, waited for the complainant after a long standing court case was adjourned on the 15<sup>th</sup> April 2003. When the accused saw the complainant in the street with her husband, he injured the complainant in the manner she and her husband described to the court, by deliberately throwing a stone at her and injuring her. I find as a fact that unlawful act was planned and premeditated.

23. In my Judgment the prosecution has proved its case beyond any reasonable doubt so that I am sure the accused committed this dangerous act. His alibi fails. I reject the evidence of both DW1 and DW2 together with all the documents. The fact the accused may have been assaulted by someone else is irrelevant to the issue in this case; which is, did he throw a stone at the complainant and injure her or not? Well I find as a fact he did.

24. I have no hesitation in convicting the accused of causing GBH with intent and; I find him guilty. He was the prime aggressor in this incident and I convict him on count 1 of the Indictment of Causing GBH with intent contrary to section 18 of the Offences against the Persons Act 1861.

25. The other two offences I make no findings on the facts of those offences, in view of my convicting him of count one.

**Shuster J**  
**Judge of the High Court for Criminal Cases**  
**Freetown**  
**8<sup>th</sup> November 2005**

Mitigation M/Thompson. Please temper justice with mercy.

Sentence 8 years  
Because (1) Blinding someone (2) Laying in wait for her after a court hearing an aggravating feature.

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**C (vi) *State v. Amadu Macaully et. al***

*Prosecutor v. Fofana, Kondewa, SCSL-04-14-T*

MONDAY 25TH  
OCTOBER, 2001

BEFORE THE HON. MR. JUSTICE  
P.O. HAMILTON, J.

Case Called

All four Accused Present  
M.M. Sesay for the State  
All Accused unrepresented

Mr. Sesay states that on the 2nd count the 3rd accused has been sentenced in the Magistrate for the 3rd count and sentenced to 18 months imprisonment. On that fact I therefore offer no evidence on count 3.

Bench: The 3rd accused is discharged on Count 3.

Charges Read.

COUNT 1.

1ST Accused pleads NOT GUILTY  
2ND Accused Pleads NOT GUILTY  
3RD Accused pleads NOT GUILTY  
4TH Accused pleads NOT GUILTY

COUNT 2.

1ST Accused pleads NOT GUILTY  
2ND Accused Pleads NOT GUILTY  
3RD Accused Pleads NOT GUILTY  
4TH Accused Pleads NOT GUILTY

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JURORS

- 1. Jane Kenhy - S.O.B.
- 2. Seray Banya - S.O.B.
- 3. Moses Cole - S.O.B.
- 4. Mohamed James - S.O.B.
- 5. Joseph S. Bahinga - S.O.B.
- 6. Daniel P. James - S.O.B.
- 7. Nancy Moriba - S.O.B.
- 8. Thomas Shiaka - S.O.B.
- 9. Moses Josiah - S.O.B.
- 10. Alfred Momoh Josie - S.O.B.
- 11. Joseph Munda Fallay - S.O.B.
- 12. William J. Bayoh - S.O.B.

FREEMAN

William J. Bayoh

Mr. Sesay seeks leave to dispense with opening address

BENCH: Application granted

P.W. 1, S.O.B. - I am a A. Kebuso

Martin. I live at No.5 Mac Robert Street, Eo. I am a businessman. I deal in Electronics and electrical parts. I carry on tje business at No. 32, Damballa road, Bo which is a shop. I recognise all four accused persons. I do recalled 23/2/04. On thjat day, I went to my shop and did business the whole day and Locked my shop at 10 P.M. with three padlocks and two 6 turn lockers. I went home.

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On the following day 24/2/04 I came to my shop at about 8 a.m. and met the shop opened. The padlocks were damaged and removed since I did not see them. The shop was partially opened. I opened and looded in and saw every thing upside down. I did not enter the shop. I went and drew the attention of my landlord Alhaji Sara Shaikay. He went there saw the shop and advised me to go to the police. I went to the police and reported. I was given two police men and one photographer. We went to the shop opened it and entered with the police. On enterering I saw a lot of things removed. Some of them were VCD machinees valued at Le150,000.00 each, One Samsung 3 player V C D machine valued Le350,000.00, One Canon Camera valued Le1,000,000.00, One Yachica Camera valued Le850,000.00, 3 cameras valued at Le750,000.00 each, 3 speakers valued Le120,000.00 One sattelite receiver valued Le450,000.00. On V C D Deck valued at Le375,000.00, 15 florescent bulbs valued at Le25,000.00 each, one sharp T.V. REMOTE CONTROL VALUED Le20,000.00 , One VCD remote valued Le15,000.00, one video deck valued Le280,000.00. One Tiger Generator valued Le3000,000.00. This is all I can remember.

After I discovered we took a list of the missing items and I made a Statement. I went to my shop after the police had taken a photograph of my shop.

On the next day 25/2/04 I was at my shop when one technician who works for me named Mr. Melvin came and told me there is a VCD brought to him for repairs which he has worked for me and has removed the lens. He asked me to go and inspect it. I went to his workshop and inspected and discovered it was mine. He told the people who took it to him to go and come by 12 noon so he could inspect the tape properly. I went to the police and informed them. They gave me two police men who hanged by the workshop a cinema at Damballa Road. I was there when the 1st accused came with the person he wanted to send the tape to. The value of the tape is Le370,000.00 but 1st accused was selling at Le40,000.00. Police then arrested the 1st accused and was taken to the police station where he named his colleagues. The Colleagues were 2nd, 3rd and 4th accused as the person he went with to my shop and they broke my shop and stole my shop and stole from it. When we went to arrest the 2nd accused we met the satellite receiver at his place and it was and it was my satellite receiver which was stolen. The 2nd accused when asked admitted he took it from my shop and that was all the 1st and 4th accused gave to him.

The 2nd accused gave us information that the main goods were with 3rd and 4th accused. During the investigation I gained an information from a neighbour, and

recall giving evidence on 25/10/04 and spoke of two items recovered which were one deck and one sattallite receiver. If I do see them I can recognise them. This is the VDD deck recovered from 1st accused identified as Z. This is the sattalite receiver got from 2nd a accused identified as Y.

XXD. by 1st Accused - N O N E

XXD. BY 2nd accused - This sattelite receiver was got from your hand.

XXD. by 3rd Accused - I have never known you before

XXD. by 3rd Accused - I have never known you before this incident.

Rexxed. - I knew the 3rd accused after the incident

XXD. by Jury - NONE

All accused are Remanded in custody

Adjourned: 28 - 10-2004

(Sgd) P.O. HAMILTON. - J

THURSDAY 28TH

BEFORE THE HON MR. JUSTICE

OCTOBER, 2004

P.O. HAMILTON - J.

Case called,

All (4) Accused Present

M.M. Sesay for the State

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A.J. Bockarie for 2nd Accused, 1st & 3rd Accused unrepresented P.W. 2 S.O.B. - I am Melvin Jesse Sesay. I live at No.30 Tucker Street, Bo. I am an Electronics Mechanic. I do know P.W.1. He is a Businessman. He is also my friend. I work for him as a Technician. I have worked for him for over a year. He deals in VCD'S Videos, Cameras and Electrical Materials. He sells at No.32 Damballa Road Bo. I recognise the accused persons. I recall 24/2/04. On that day I came to my workshop to work at 10. a.m. When I came on my way I was told of a theft in the place of P.W.1. I went to check at the shop of P.W.1. On arrival I saw the doors wide open. I saw Chike who told me there was a theft in their shop last night. I saw the door wide open and then asked for one of the items I was working on but got to know it was also stolen.

I went back to my shop to work. The next day I came to my shop to work when I saw two people one of whom I can't identify but the 1st accused was the other one. They came with a bag something in it. Then open and took out a set which I recognise I had worked on belonging to P.W.1. It is a VCD SET. I told them to pay for an inspection fee which was Le5,000.00. I told them to go and check me at 12 noon. They left and I went to P.W.1 and told him I have seen a set I used to maintain. Chike then went with me to the shop. I opened the tape set and saw it was the set. He went and called P.W.1 and

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and they reported to the police. This is the tape I had worked on which 1st accused took to me - Z re identified. Later the police came and arrested the 1st accused and the unknown man and took them to the police where I made a statement.

XXD. By 1st Accused - NONE

XXD. By Bockarie for 2nd Accused - NONE

XXD. By 3rd Accused - NONE

XXD. By 4th Accused - NONE

Rexxd. - NONE

XXD BY Jury - NONE

P.W. 3 S.O.B: I am Chike Ezedama.

Mr. Sesay applies to amend the back of the indictment Pursuant to Section 148 (1) CPA 1965. It is to amend witness to read "Chika" not "Chula". This defect is only patent i.e.. Typographical as it does not affect the merit of the case. This amendment will cause no injustice to the accused.

Mr. Bockarie has no objection.

BENCH: Application granted.

P.W.3 Continued: I live at No5 Mac Robert Street, Bo. I am a Businessman. I trade in electrical and electronic goods. I do know P.W.1. He is my brother. I recognise the accused persons. I recalled 23/2/04. On that day in the evening after finishing business at 10.20 p.m. We locked the shop and went to sleep. In the morning



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I saw my brother who came and said they broke the shop and taken away some items. I rushed to the shop and saw the door opened. I opened the shop and found most of the items missing. The shop was closed with 3 padlocks and 2 six turn locks. The locks were not seen. I saw most of the items missing such as VCD generator, satellite receiver, Cameras VCD REMOTE CONTROLS ETC.

Later one Mr. Melvin came to the shop and I told what had happened and that one of the VCD HE worked on two weeks ago has been stolen. He is a VCD Technician and has worked for me. On 25/2/04 in the morning Melvin came and told me somebody brought the VCD to his shop which he had worked on and has told the people to come at 12 noon. I went to his workshop and he showed me the VCD. He opened it and I identified it as one of the items stolen. I then went and told P.W.1 who later informed the police. Later the two boys who brought the VCD to P.W.2 were arrested and that was the 1st accused since the other one cannot be identified. They were arrested and I went back to my shop. This is the VCD set - Z further re identified. I later made a statement to the police.

XXD. By 1st Accused - NCON.

XXD. by Bockarie for 2nd accused - I do not know whether the shop is insured. I am always in that shop. It is

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my brother that takes stock. I do not know whether P.W.1 does take stocks. This brand of VCD is not popular in the market. I am a seller and not a supplier of this brand of VCD. I do not know whether my shop alone sells this brand of VCD in Bo.

XXD. by 3rd Accused: I do not know you

XXD. by 4th accused - I do not know you

Rexxd. - I knew 3rd accused during this investigation I know 4th accused during this investigation.

XXD. by Jury NONE

P.W.4 S.O.B: I am John Morgan Koroma. I live at No.41 Old Police Barracks Bo. I am DPC 3728 attached Bo Police Station. I do recognise all 4 accused persons. I recalled 24/2/04. On that day in the morning hours I was on duty. Whilst on duty a case of shop breaking and Larceny was reported by P.W.1.

Myself, DP/Sgt 3532 now an Inspector, DPC 478 Gbandagbela visited the scene. On arrival I observed the shop door partly opened and P.W.1 told me the locks were also taken away by the thieves. Inside the shop it was ramsacked. I then came back to Bo police station and obtained statements from P.W.1 and his witness.

On 25/2/04 P.W.1 informed me that he has seen one of his stolen items. He then invited to a certain work-

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shop along Damballa Road where I went with my colleagues and arrested 1st accused and another who had wanted to buy the VCD tape. The 1st accused and exhibit were brought to the station where I cautioned him in Krio and he made statement in Krio which I recorded in English. At the end I read and explained in Krio and he admitted it to be true and correct. He signed by affixing his R.H.T.P. BY DPC 7680 Ballay and I signed as recorder. This is the statement - Tendered as Exhibit. A.

After obtaining statement from 1st accused who disclosed his fellow thieves my self and my other colleagues named went in search of these people. Reaching at 3rd accused residence his wife disclosed to us that on 24/2/04 at night she saw the 3rd accused with a bag called "Ghana must go bag" which she saw in their room but 3rd accused failed to explain to her its contents which appeared to be stolen and on the said day 3rd accused had travelled to Jorua behind Kenema with the said bag. I obtained statement from the wife.

On the same day 2nd accused was brought to the police with a stolen item he met with 2nd accused. I cautioned the 2nd accused in Krio he made statement in Krio which I recorded in English. At the end I read and I read and explained to him in Krio which he admitted to be true and correct. He signed it by affixing R.H.T.P.

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witnessed by DPC 478 Bandagbla and I signed as recorded  
This is the statement. Tendered as Exhibit "B".

The following day myself and my colleagues travelled to Joru back of Kenema and arrested 3rd accused. On arrival at Bo Police station I cautioned him in krio he made statement in krio which I recorded in English. At the end I read and explained in Krio and he admitted it to be true and correct. He affixed H.R.T.P. Witnessed by DPC 478 Gbanda Gbla and I signed as recorder. This is the statement- Tendered as Exhibit C.

After this statement from 3rd accused the following day a team of youths arrested the 4th accused and brought him to the station. On his arrival I cautioned him in Krio he made statement to me in Krio which I recorded in English. AT the end I read and explained in Krio and he admitted it as true and correct. He affixed HRTP witnessed by DPC 478 Gbanda Gbla and I signed as recorder. This is the statement - Tendered as Exh. D.

On 1/3/04, I charged the 1st accused with the offence of Conspiracy and shop breaking and larceny. I cautioned him in Krio he made statement in Krio which I recorded in English. At the end I read and explained in Krio and he admitted it as true and correct. He affixed HRTP witnessed by DPC 478 Banda Gbla and I signed as recorder. This is the statement - Tendered as Exh.E.

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SUMMING UP

The charge against the accused persons are thus:-

COUNT 1.Statement of Offence

Conspiracy to commit a Felony contrary to Law.

PARTICULARS OF OFFENCE

Amadu Macaully, Eshmael Ben-Kallon (Alias Ben Loko) Shaika Kallon (Alias Mualim) and Daddy Cummings (Alias Alhaji Gbondor) On the 24th day of February 2004 at Bo in the Southern Province of Sierra Leone conspired together with other persons unknown to commit a felony to wit, Shop-breaking and Larceny.

COUNT 2Statement of Offence

Shop-Breaking and Larceny contrary to section 26 (1) of the Larceny Act, 1916.

PARTICULARS OF OFFENCE.

Amadu Macaully, Ishmael Ben-Kallon (Alias Ben Loko) Shiaka Kallon (Alias Mualim) and Daddy Cummings (Alias Alhaji Gbondor) on the 24th day of February 2004-at Bo in the Southern Province of Sierra Leone Broke and entered the shop of Ikebuso Martin and stole therein Sixteen VCD Sets valued Le2,400,000.00. One Sharp Video set valued Le280,000.00, One Samsung VCD set valued Le350,000.00 One sattalite receiver valued Le350,000.00,

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ONE Deck machine valued Le200,000.00, one Tiger Generator valued Le300,000/00, two speakers valued Le120,000/00/ 15 Florescent bulbs valued Le375,000/00 one Canon Camera Valued Le1,000,000/00, one Yastiza Camera valued Le850,000/00, three Rico Cameras valued Le2,250,000/00, one VCD Tape and radio set valued Le375,000/00, one Sharp Television remote control valued Le20,000/00 and one VCD remote control valued Le15,000/00 all to the total value of Le8,985,000/00 property of the said Akebusu Martin.

COUNT 3.Statement offence

Escape from lawful custody contrary to law

PARTICULARS OF OFFENCE

Shaika Kallon (Alias Nualim) On the 30th day of April, 2004 at Bo whilst in Remand at the Bo Prisons and was been escorted to hospital for treatment escaped from custody.

On this third Count Counsel for the stated offered no evidence as the accused has already been convicted at the Magistrate Court and sentenced as such can't be punished twice. The 3rd accused was therein discharged.

On Counts 1 and 2 all accused persons pleaded NOT GUILTY.

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Members of the Jury before proceeding to direct you on the law in relation to both Counts let me inform you that this is a Criminal trial for which the burden of proof is on the prosecution to prove the guilt of each accused beyond reasonable doubt. Where the prosecution does succeed the accused persons must be found guilty and convicted. Where the prosecution fails the accused persons must be found not guilty and acquitted and discharged.

The law on both Counts must now be explained to you the jury so that you can be fully acquainted of what the prosecution must prove in order to gain a conviction. Conspiracy in law is the agreement of two or more persons to do an unlawful act or to do a lawful act by unlawful means, and unless into persons are found to have combined there can be no conviction. Where two agree to carry it into effect the very plot is an act itself, and the act of each of the parties, promise against promise, "actus contra actum" capable of being enforced if lawful. You should note as laymen, members of the jury that the offence cannot exist without the consent of two or more persons. The prosecution must prove the agreement which is to do an unlawful act relying on acts and declarations and overt acts proved against some of the accused persons may be looked at as against all of them to show the nature and object of the

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Conspiracy. This is as regards count One.

In relation to Count 2: Shop breaking and Larceny contrary to section 26 (1) of L.A. 1916 it provides - "Every person who breaks and enters.. any shop..... and commits any felony therein shall be guilty of felony....." The prosecution must prove a breaking actual or constructive. Larceny as defined under the L.A.1916 which is that" a person steals who without the consent of the owner fraudulently and without a claim of right made in good faith takes and carries away anything capable of being stolen with int, at the time of such taking permanently to deprive the owner of it."

What evidence did the prosecution lead against against the accused persons? This can be briefly reviewed in order that you may come to a sound and reasonable conclusion.

The first witness(P.W.1) stated that he deals in electronics and electrical parts and recalls 23/2/04. He went to his shop did business for the whole day and closed his shop at 10 p.m. with three padlocks and two 6 turn lockers. He went home and on the following 24/2/04 he came to his shop at 8a.m. met the shop opened. The padlocks were damaged and removed as he met the opened and did not see the padlocks. He peeped in and saw everything upside



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down but never entered the shop. He drew the attention of his landlord and then went to the police where he made a report. He went with the police and a photographer. They entered the shop wherein he saw a lot of things missing. He listed some he could recollect and their prices. On the next day his technician who works for him by the name of Melvin came to him and gave him an information of a VCD brought to him for repairs since he has worked on it by removing the lens. He went and inspected it and discovered that it was his property. He then went to the police and gave them the information who gave him two policemen to hang around. The 1st accused then came into the person he wanted to sell the V.C.D. to, The 1st accused was arrested and he named the 2nd 3rd and 4th accused as the persons he went with to his shop and broke into it. When they went to arrest the 2nd accused they met the sattalite receiver which was stolen at his place. When questioned the 2nd accused did admit he took it from his shop and that was what the 1st and 4th accused gave to him. The 2nd accused then gave him an information that the main goods were with the 3rd and 4th accused. During the investigation he gained an information from a neighbour and his wife that 3rd accused came home with a big bag called "Ghana must go bag". WHICH information his wife confirmed. He was told he has travelled with the bag to Kenema and with the

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help of his wife and C.I.D. men he was traced to a village behind Kenema but on arrival he had disposed of the bag but was arrested and taken to Bo Police Station. The 4th accused was later arrested and taken to Bo Police Station. The witness then identified the V.C.D. deck retrieved from 1st accused and the satellite receiver was found in his hands.

Melvin Jesse Sesay (P.W.2) stated that he knows P.W.1 who is his friend and a business<sup>man</sup> and that he works for him as an Electronics mechanic that P.W.1 deals in electronics goods such as V.C.D.s, Cameras, Videos ect at No.32 Damballa Road Bo. On 24/2/4 he came to work at his workshop at 10 a.m. but on his way he heard of a theft in the shop of P.W.1 and so went there and found the door wide open. He asked for one of the items he was working on but was told it was been stolen. The next day he saw two people of which the 1st accused was one of them with a bag containig<sup>1</sup> some thin. They took out a set and saw that it was a V.C.D. set. He charged an inspection fee of Le5000 and told them to go and come at 12 noon. When they left he went to P.W.1 and told him he has seen the set he used to repair for him. He went with Chike and opened the set and went to P.W.1 who reported to the police. The 1st accused came and he was then arrested together with the unknown man and taken to the police Station.

Chike Ezedama (P.W.3) STATED HE KNOWS p.w.1 who is his brother. On 23/2/04 after finishing their

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business at about 10.30 P.M. They locked the shop and went to sleep and in the morning his brother came to him and told him their shop had been broken into and items taken away. He rushed to the shop and found the shop door opened. He opened the shop and found some items missing. The shop was closed with three padlocks and two six turn locks. Later one Mr. Melvin came and he told him the V.C.D. he worked on has been stolen. On 26/2/04 Melvin came and held him that somebody took the V.C.D. set to his shop but told the people to come at 12 noon. He went to the workshop saw the V.C.D. SET AND IDENTIFIED it as one of the stolen items. Later the two boys who brought the set were arrested and one was the 1st accused. In XXD from Mr. Bockarie he stated he does not know whether the shop is insured. He is always in the shop and it is his brother that takes stocks That the brand of V.C.D. is not popular in the market and that he is a seller not a supplier of the brand of V.C.D. He does not know whether his shop alone sells the brand of V.C.D. in So.

John Morgan Koroma (P.N.4) DPC 3728 tendered in evidence the statement of 1st accused as Exhibit A, the Statement of 2nd accused as Exhibit B, the voluntary cautioned statement of 3rd accused as Exhibit C, the statement of 4th accused as Exhibit D and the charge statements of all accused as Exhibits E, F, G and H.

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IN answer to questions from 3rd accused he stated that that when he went to arrest him he was not at home. When he searched his place he saw no exhibits. That he arrested him at Joru Village and cannot now re collect what he was arrested with. That he was arrested for conspiracy and shop breaking and that his wife never told him what was in the bag but she said they were items but can't tell what.

The prosecution then closed its case and the accused persons all relied on their statements which was tendered as their defence. The 1st, 2nd and 4th accused elected not to call witnesses. The 3rd accused states that he is calling 1st accused as his witness but 1st accused refuses to give evidence which 3rd accused later on accepted. This ended the case for the defence.

Foreman and members of the jury, let me again remind you that this is a criminal trial for which the burden is on the prosecution to prove the guilt of the accused person beyond reasonable doubt. Where the prosecution succeeds the accused persons ought to be found guilty. Where the prosecution fails the accused persons ought to be found not guilty and acquitted and discharged, similarly where there is a reasonable doubt created on the basis of the evidence that reasonable doubt must be resolved in favour of the accused on whom it fall and he must be acquitted and discharged. You would realise that this is a case

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involving four accused persons otherwise referred to as plurality of accused persons, Let me warn you that that the evidence led mut connect each accused persons seperately but I shall in considering the offence of conspiracy and dealing with acts and declarations put to you clearly how the acts and declarations of one act can be imputed to affect the other accused persons.

Members of the jury let me read to you the statement made by each accused person which is their defence and is also part of the case for the prosecutions.

On the charge of conspiracy the statement of 1st accused clearly showed how 2nd accused agreed with him to go and steal from complainants shop whilst then 1st accused played the role of a watchman for any passer by The 3rd accused denied agreeing to join the others. The 4th accused at first denied any involvement in any agreement to steal or even stole from shop of P.W.1 but later on admitted he slept with 1st 2nd and 3rd accused on the night of the incident.

Members of the jury the conspiracy or agreement in itself is an offence and it is immaterial whether anything has been done in pursuance of it. The overt acts proved as against 1st and 2nd accused may be broke at as against the other accused persons or all of them to show the nature and object of the conspiracy.

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On Count 2 which is shop breaking and Larceny, the evidence of P.W.1 P.W.3 are clear as to the breakage P.W.2 did give evidence as to how 1st accused took to him a V.C.D. THAT was stolen from the shop of P.W.1 which set he always repaired. The sattalite receiver was got from the 2nd accused. Members of the jury it is for you to ask yourselves, how did the 1st and 2nd accused. Members of the jury it is for you to ask yourselves, how did the 1st and 2nd accused get these two items which were in the shop of P.W.1 ? These are issue for you to answer and to arrive at a sound decision

Foreman, members of the jury you may retire if you so desire.

Jury does not wish to retire.

VERDICT.

COUNT 1:- All Accused persons unanimously GUILTY.

COUNT 2:- All Accused persons unanimously GUILTY

ALLOCUTUS: All Accused persons beg for mercy.

SENTENCE

Count 1:- Each Accused to serve a term of 10 years imprisonment

COUNT 2:- Each Accused to serve a term of 10 years  
imprisonment.

BENCH;§ Sentences to run concurrently.

(Sgd) P.O. HAMILTON. J.

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**ANNEX D****Transcripts Relevant to Sentencing**

No.	TF2 No.	Transcript	Crime Base	Judgment Reference
1.	TF2-001	14 February 2005, pp. 83-84	Bo	Para. 455
2.	TF2-006	9 February 2005, pp. 5-14	Bo	Para. 472
3.	TF2-007	2 December 2004, pp. 57-59	Bo	Paras 531, 532
4.	TF2-058	3 December 2004, pp. 65-67	Bo	Paras 499, 500
5.	TF2-156	25 November 2004, pp. 44-50	Bo	Paras 480, 481
6.	TF2-198	15 June 2004, pp. 22-23	Bo	Paras 477-478
7.	TF2-035	14 February 2005, p. 27	Tongo	Para. 388
8.	TF2-048	23 February 2005, p. 26	Tongo	Para. 401
9.	TF2-041	24 September 2004, pp. 30-33	Kenema	Paras 579, 580
10.	TF2-151	23 September 2004, pp. 8-17	Kenema	Paras 602, 603
11.	TF2-086	8 November 2004, pp. 100-102	Bonthe	Paras 563, 890(iv), 892
12.	TF2-188	31 May 2005, pp. 15-17	Talia/Base Zero	Paras 625, 921(v)
13.	TF2-EW3	20 June 2005, pp. 41-42, 45-46		



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**1. BO – TF2-001**

1 from the fence and brought to the highway and he was  
2 chopped by machetes and they were shouting, "Allahu  
3 Akbar, Allahu Akbar."

4 Q. Now, Mr Witness, how far were you from this incident?

5 A. Well, it's about 150 yards from them. So after they have  
6 hacked him a boy shouted, "Daddy, daddy, daddy."

7 Q. He did not say a boy, Mr interpreter.

8 THE INTERPRETER: Can you please go over.

9 MR KAMARA:

10 Q. Mr Witness, could you please go over that again?  
11 A. After he has been hacked, the house that we went -- that  
12 was a girl child, he shouted to his father he said, "They  
13 have killed your brother. Daddy, daddy, they have killed  
14 your brother." She said, "Freeman." And the man moved  
15 out of the room and went there.

16 Q. And this man you are referring to; who is he?

17 A. He was one of the Kamajors leaders the one who we went to  
18 meet in his house.

19 Q. Is it the same man that was Freeman's father -- brother  
20 the one you reported to?

21 A. That is the man.

22 Q. So what happened; you said he came outside?

23 A. He came out and took Freeman's body and said, "Oh,  
24 Freeman had died."  
25 MR KAMARA: Your Lordships, the witness seems to be  
26 inconvenienced now and I don't know if we will take a  
27 short break to let the witness get his composure  
28 together.

29 PRESIDING JUDGE: [Microphone not activated]

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1 VWS OFFICER: Your Honour, the witness wants to go out for a  
2 few minutes.  
3 PRESIDING JUDGE: The Court will rise. When he is ready you  
4 call us in, please.

5 [Break taken at 3.44 p.m.]

6 [On resuming at 3.55 p.m.]

7 PRESIDING JUDGE: Yes, we are resuming the session

8 Mr Bangura -- rather, Mr Kamara even. You may proceed,  
9 please.

10 MR KAMARA: Thank you, Your Honour.

11 Q. Mr Witness, we are sorry we have to revisit some of these  
12 incidents.

13 PRESIDING JUDGE: Mr Witness, are you now all right?

14 THE WITNESS: Yes.

15 PRESIDING JUDGE: Can we proceed?

16 THE WITNESS: Yes, sir.

17 MR KAMARA:

18 Q. Now, Mr Witness, I will try to fast forward to the next  
19 day of the 16th.

20 A. On the 16th I came to town from the bush. Because when  
21 they killed that man I ran to the bush. I came in the  
22 morning.

23 Q. When you say you came back into town, are you referring  
24 to Bo town?

25 A. I came to Bo Towns. I came to Bo Town, I slept  
26 in the bush. I came to look for my children.  
27 I met one of my children and she told me that  
28 her mother is at Mr James Pessima's house.

29 Q. Mr Witness, I will advise not to mention certain names

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**2. BO – TF2-006**

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1 A. I am stationed at Bo.

2 Q. Mr witness, how long have you been residing in Bo?

3 A. I have been there for eight years.

4 Q. Before you came to Bo, where did you last live?

5 A. I came from Tonko Limba and then I came to Bo.

6 MR BANGURA: If I may, Your Honour, I would ask the question

7 again. I believe the witness has not said Tonko Limba.

8 Q. Mr witness, where did you last reside before you came to

9 Bo?

10 A. I came from Tonko, I came to Bo.

11 Q. Are you married?

12 A. Yes.

13 Q. Do you have children?

14 A. I have four children.

15 Q. Mr witness, what do you do for a living?

16 A. Now I cannot work because I have been amputated.

17 Q. Since when did you stop working -- were you amputated?

18 A. During the war.

19 Q. what did you used to do before the war; what was your  
20 occupation?

21 A. I was a farmer because I was planting and getting what to  
22 eat.

23 Q. Mr witness, what languages do you speak apart from Limba?

24 A. Limba and krio is what I speak.

25 Q. Mr witness, I want us to focus our attention on events  
26 that occurred in this country not so long ago. Do you  
27 remember that there was a war in this country recently,  
28 Mr witness?

29 A. Yes, I know that.

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1 Q. Who hit you with a stick?

2 A. The kamajors.

3 Q. What part of the body were you hit?

4 A. On my side, on my right side.

5 MR BANGURA: On his right side. Your Honour, it would be on  
6 the diaphragm.

7 JUDGE BOUTET: In the ribs.

8 MR BANGURA: The ribs, yes.

9 Q. Mr witness, you say you were hit with a stick and you  
10 fell. Did anything else happen to you?

11 A. Yes.

12 Q. What happened?

13 A. They amputated my hand.

14 Q. You say they amputated your hand. How did it happen,  
15 Mr witness? You fell down and from the moment you fell  
16 down to the moment that your hand was amputated, I want  
17 you to tell us in sequence what happened.

18 A. When they hit me with a stick, I fell down. Three of  
19 them fell on me. They cut my hand. They said, "One  
20 love."

21 Q. Now, Mr witness, three of them fell on you and what did  
22 they do? How did they cut your hand?

23 A. There was a stick lying there, they placed my hand there  
24 and then they used a cutlass to amputate my hand.

25 Q. Did you see the person who chopped your hand?

26 A. Since I was lying on the ground I did not see the person  
27 who cut my hand.

28 Q. And you say your hand was put on a stick. What sort of  
29 stick are you talking about?

1 A. There was a stick lying there that had been cut before.  
2 Q. Mr witness, which hand was amputated? which of your  
3 hands did the Kamajors chop?  
4 A. The left hand.  
5 Q. would you like to show the Court the hand which they  
6 chopped?  
7 A. Yes.  
8 Q. Please do. Can you raise that hand up?  
9 MR BANGURA: Your Honours, at this stage I would invite the  
10 court to take notice or cognizance of that.  
11 PRESIDING JUDGE: we look at the hand.  
12 JUDGE BOUTET: This is the fingers. All the fingers of the  
13 left hand.  
14 PRESIDING JUDGE: The fingers.  
15 JUDGE BOUTET: The four fingers.  
16 THE WITNESS: It's four fingers. Four fingers. They cut four  
17 fingers. They left one and they said, "One love."  
18 MR BANGURA: Did they say, "One love"? Do you know what that  
19 meant?  
20 A. No, I don't know what it meant, I just heard them saying,  
21 "One love."  
22 Q. Mr witness, after they had done this to you did you say  
23 anything?  
24 PRESIDING JUDGE: Please let the record reflect that it was  
25 not the hand --  
26 THE WITNESS: Yes, I saw them doing other things.  
27 PRESIDING JUDGE: -- that it was not the hand that was cut  
28 off. Please, the records should reflect that fact. The  
29 four fingers, you know, of the left hand.

1 MR BANGURA: I am with you, Your Honour.

2 PRESIDING JUDGE: That were cut off, not the hand.

3 MR BANGURA:

4 Q. Mr witness, did you say anything at all?

5 A. They were chopping people and then at that time I was  
6 already lying in the bush.

7 Q. I am talking about just after they had chopped your  
8 fingers. Did you yourself say anything?

9 A. They were only chopping people that was the place  
10 [inaudible]. I was about to run.

11 Q. Did they say anything to you after they chopped your  
12 fingers?

13 A. Yes.

14 Q. What did they say?

15 A. They said -- they said, "we missed you. If we had killed  
16 you that would have been better because you were the  
17 people helping the soldiers."

18 Q. Can you tell this Court what happened next? What  
19 happened after this?

20 A. Where I fell? That was in the evening. So I had to hide  
21 myself in the bush and I slept there.

22 Q. Did you get any help?

23 A. It was at night, there was no help because I was alone in  
24 that bush.

25 Q. You eventually got help in the morning; is that right?

26 A. Until when I met my own relatives, they were the people  
27 that were helping me.

28 Q. Did it take you long, Mr witness, to cure yourself?

29 A. It was about three months because I had no money, so I



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1 had to go -- borrow money from people.  
2 Q. Have you been able to work since then?  
3 A. Up to this day I cannot work.  
4 Q. Mr witness, that day that the Kamajors did this act to  
5 you that they chopped off your fingers, of the Kamajors  
6 that you saw can you what were they like? Were they --  
7 can you describe them? Not what they wore, how were  
8 they -- what were the composition like. Were they all  
9 men?  
10 A. Their clothes? It was ronkos and the short trousers.  
11 They had caps.  
12 Q. Okay, Mr witness --  
13 A. And on that cap there are cowries.  
14 Q. Were they all men?  
15 MR BOCKARIE: Objection, Your Honour, that is leading, Your  
16 Honour.  
17 THE WITNESS: No, they were all men.  
18 JUDGE BOUTET: Why is this leading? Are you disputing that?  
19 Is it a fact that is disputed?  
20 MR BOCKARIE: Well in light of the answer, I will withdraw it.  
21 JUDGE BOUTET: I have not heard than answer. I was talking to  
22 you, I don't know the answer.  
23 MR BOCKARIE: It sounds like he said they were all men.  
24 JUDGE BOUTET: Carry on, Mr Prosecutor.  
25 MR BANGURA: I did not get that answer.  
26 PRESIDING JUDGE: I got it. He said they were all men.  
27 JUDGE BOUTET: Ask him to repeat the answer.  
28 MR BANGURA:  
29 Q. The question was: The Kamajors that did it you saw, were

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**3. BO – TF2-007**

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1 for you. I pray for us. Your companions are not here.  
2 That's why these who are not here, that's why I'm praying  
3 for you so that the blessing will follow you all because  
4 these people have said they are going to kill me." Then  
5 he spat in my palm, then I put it on my forehead.

6 Q. After this, Mr Witness, did anything happen?

7 A. Yes.

8 Q. Please explain.

9 A. I saw them, the Kamajor that took my father and me, he  
10 was in front, and I was among them. We went to a school  
11 compound.

12 Q. Yes.

13 A. We went to the school compound, and the Kamajors were  
14 shooting. I was among them. But at that time, they had  
15 taken my father away from me. I did see them shooting  
16 throughout. Continuously. I didn't see anything else  
17 except that I saw that they tied my father, and they  
18 placed him in one hut in the school compound. That's  
19 where they tied him.

20 Q. Slowly, please, Mr Witness. You said they tied him in a  
21 hut inside the school compound. What happened next?

22 A. Yes, the hut was destroyed, and they set fire to it. The  
23 Kamajors. And he was under the hut.

24 Q. Mr Witness, you said the hut was destroyed. Can you  
25 explain what you mean?

26 A. It was broken, but it didn't reach the ground. It was  
27 broken in half, but it didn't reach the ground. But it  
28 was not standing like it used to be.

29 Q. Mr Witness, when you say it was destroyed, again, you say

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1 it was broken, did anybody break it or did anybody  
2 destroy it? Is that what you're saying?

3 A. That's the thing that I do not know.

4 Q. Was it an old hut?

5 A. Yes, it was an old hut where they cooked the food for the  
6 school children.

7 Q. Mr Witness, you said they tied your father and they set  
8 the hut alight. Did they do anything to your father  
9 before they set the hut alight?

10 A. I just -- I heard shooting throughout when I was there.  
11 But I was among them because they had not released me.  
12 But I didn't know whether he died before they tied him,  
13 but I just saw him tied, and I saw him from the back.  
14 Then I saw them place him in the hut before they set fire  
15 to it.

16 Q. Mr Witness, can you explain what happened next.

17 A. Secondly, I saw the fire until it finally went out. Then  
18 they cut his head.

19 Q. How long would you say that the fire lasted?

20 A. I can't remember the hour because I didn't have any  
21 watch. But as I saw it, there was about 30 minutes  
22 because it's a hut made of palm fronds. Fire wouldn't  
23 take long in it.

24 Q. You say they cut your father's head. Do you know what  
25 they did with it?

26 A. After his head has been cut off, then they told me to go  
27 home. And I went. I was scared because when I was  
28 going, I thought that if I turn around, they would kill  
29 me, so I entered in one of the houses where we sleep. I

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1 was in the house. Then the Kamajors -- the Kamajors  
2 came. I heard the noise. And they came and called me.  
3 Then I came out. When I came out --

4 Q. What did you observe?

5 A. When I came out, I saw -- I didn't see anything else  
6 except his head on a stick, the half of his head on a  
7 stick, that they were dancing with it.

8 Q. You mean your father's head?

9 A. Yes, my father's head. It was on a stick. They were  
10 dancing with it, when they came to my house.

11 Q. Did they say anything to you?

12 A. Oh, yes. Yes.

13 Q. What did they say?

14 A. They said they had brought my father's head, that I  
15 should give them something as a token. But I said I  
16 didn't have anything, and they asked me that I should  
17 dance with them. Then I said, no, I can't. Then they  
18 passed by.

19 Q. Mr Witness, apart from the -- earlier in your evidence  
20 you mentioned that you knew one of the Kamajors who went  
21 to call you -- to arrest you in your farm. Apart from  
22 that Kamajor, did you recognise any other Kamajors from  
23 amongst those that you saw?

24 MR WILLIAMS: Your Honour, this question has been answered.

25 He said when I came back, I met ten more Kamajors, and I  
26 was able to recognise one of them. That was his answer.

27 MR BANGURA: Your Honours will recall that the witness was  
28 seeking to go in some ways ahead of the evidence, and he  
29 was saying, "when we went to that place and to the other

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**4. BO – TF2-058**

1 A. I tried to go to Kuprr Kalisa.  
2 PRESIDING JUDGE: Do you want to volunteer a spelling? I see  
3 you smiling. There are consultants on this side.  
4 MS WIAFE:  
5 Q. Which district is this, Madam Witness?  
6 A. It's Kambia District.  
7 PRESIDING JUDGE: What did she call the place again?  
8 MS WIAFE: Kuprr Kalisa.  
9 PRESIDING JUDGE: Let her pronounce it.  
10 THE WITNESS: Kuprr Kalisa, Kambia district.  
11 MS WIAFE: K-O-P-R Kalisa, K-A-L-I-S-A.  
12 PRESIDING JUDGE: Is it Kopr or Kuprr?  
13 MS WIAFE: Kuprr.  
14 PRESIDING JUDGE: Kuprr Kalisa.  
15 MS WIAFE:  
16 Q. Madam Witness, what happened at Kuprr Kalisa?  
17 A. That is where my husband's father was.  
18 Q. Did you get to Kuprr Kalisa?  
19 A. Yes, yes, I was able to reach.  
20 Q. What happened when you got to Kuprr Kalisa?  
21 A. Well, I went to inform my husband's father that -- about  
22 the death that overtook his son.

23 PRESIDING JUDGE: She appears to be under some stress or so --  
24 THE WITNESS: Yes, I am tormented. At any time that you ask  
25 me something connected with my husband, I feel bad and  
26 I get tormented.  
27 MS WIAFE: Your Honours, I don't know if we could take a break  
28 at this point just to --

29 PRESIDING JUDGE: Is the Witness Protection Unit

- 1 representative here? Yes, madam, can you just go and  
2 cheer her up a bit, please. Are we making some progress?
- 3 MS BARRIE: The witness is ready to go on, Your Honour.
- 4 PRESIDING JUDGE: Okay.
- 5 JUDGE BOUTET: Yes, you may proceed.
- 6 MS WIAFE: Thank you, Your Honour.
- 7 Q. Madam Witness, I have a few more questions for you. What  
8 happened when you got to Kuprr Kalisa?
- 9 A. All right. When I arrived at Kuprr Kalisa, I was trying  
10 to find my husband's father's house and I met them making  
11 a booth before the house where people went to observe the  
12 funeral ceremony.
- 13 Q. Madam Witness, take your time. Whose funeral ceremony  
14 are you talking about?
- 15 A. When I arrive at Kuprr Kalisa -- when I arrived at Kuprr  
16 Kalisa to tell my husband -- my husband's father that  
17 they killed him -- that they killed my husband, so I saw  
18 one booth right in front of the house. When I saw that  
19 booth, I thought that my husband -- that the death --  
20 I thought that they had informed my husband's father  
21 that --
- 22 JUDGE BOUTET: Are you okay, madam? Can you continue?
- 23 THE WITNESS: So I reached at the house.
- 24 MS WIAFE:
- 25 Q. Madam Witness, are you okay? Are you feeling fine?
- 26 A. Yes.
- 27 Q. Yes, carry on. So when you saw the booth, what happened?
- 28 [HN031204E 3.40 p.m.]
- 29 A. So I entered in the house. I met -- I met some people



1 that I just buried my husband's father [as interpreted].

2 So I cried. And I told the people that they had killed

3 my husband. That's why I've come to tell his father.

4 Q. Madam Witness, please wait. What did they say to you?

5 A. They told: "Oh, my daughter, now you suffered a lot."

6 So they said to me, your in-law to whom you are coming to

7 narrate the death of his son, he himself has died. He

8 himself has died because of the shock of your husband's

9 death.

10 Q. Madam Witness, did they tell you how they got to know

11 about your husband's death?

12 A. Yes.

13 Q. What did they say?

14 A. So when people had known that I had come, I had gone to

15 tell my husband's father about the death of his son, I

16 found out that my husband's father had died because of

17 the shock of the death of his son. He said, well, it was

18 not my husband that was killed. It was him himself that

19 was killed.

20 Q. Please wait. Madam Witness, who said it wasn't your

21 husband that was killed but he himself who was killed?

22 A. That's my husband's father. He was the one that was

23 talking to people. But by then, I was not there when

24 they were talking about this. They had already buried

25 him. It was the people who had explained to me that when

26 your in-law received a message that they had killed your

27 husband, that was the time when they explained to the

28 people that it was not your husband that was killed, but

29 he himself that was killed.

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**5. BO – TF2-156**

1 I wonder whether with the direction of the panel.

2 PRESIDING JUDGE: You're referring to the scars?

3 MR KAMARA: Yes, scars, yes, the huge scars that the witness  
4 has not only on the foot, but in some other areas.

5 JUDGE BOUTET: Well, maybe we can have a description first of  
6 all and then we can come back to that.

7 MR KAMARA: Certainly, Your Honour.

8 Q. So you said you were chopped on the foot. Which foot?

9 A. On my right foot.

10 Q. And where particularly on the foot?

11 A. It is why I said let me remove it so that you can see.

12 JUDGE BOUTET: Let him do that, then, if it is easier that  
13 way.

14 MR KAMARA:

15 Q. Okay. Take off your tennis shoes and show the Court?

16 MR KAMARA: I wonder whether the camera can focus on the  
17 witness so he does not have to get up. Your Honours.

18 I wonder whether you were able to see.

19 JUDGE BOUTET: From where I sit it is difficult, because of  
20 the table, but I wonder if he could not be helped by the  
21 Witness Protection Unit here. Maybe you can put the  
22 table aside so we can see a bit more clearly to the  
23 witness. All right, yes, okay. I think the witness is  
24 not very tall. He could stand up, I think. Yes, okay.  
25 This is your right foot.

26 PRESIDING JUDGE: Is the defence -- you can move there.

27 MR KAMARA: You can move across to the other end so the  
28 Defence could see.

29 JUDGE BOUTET: Yes.

1 MR KAMARA: Your Honours, while we're at this stage, I wonder  
2 whether we could go ahead and show the different parts  
3 where --  
4 JUDGE BOUTET: May as well, yes. Ask him to describe it as he  
5 is showing.  
6 MR KAMARA:  
7 Q. Mr Witness, as you're showing us where else were you  
8 stabbed. Show us please.  
9 JUDGE BOUTET: On your stomach, yes.  
10 MR KAMARA: The stomach, the chest all the way down to the  
11 stomach.  
12 JUDGE BOUTET: And you were also pointing to something on your  
13 neck.  
14 MR KAMARA: And your neck?  
15 JUDGE BOUTET: It's on the right-hand side of your face and  
16 neck.  
17 MR KAMARA:  
18 Q. And what about your face?  
19 A. My face and my nose. The nose is split and my lips. My  
20 lip was cut three sides, three parts. Two teeth were  
21 removed and one broken.  
22 JUDGE BOUTET: So on your body -- [microphone not activated].  
23 MR KAMARA:  
24 Q. Is there any other scar on your body relating to those  
25 wounds? Is that all?  
26 THE INTERPRETER: My Lord, the witness does not have his mic.  
27 THE WITNESS: No, there is no other site except the ones I  
28 have shown you.  
29 MR KAMARA: Thank you, Mr Witness.

1 THE WITNESS: It is only the pain that is in my body now.

2 JUDGE BOUTET: Thank you, Mr Witness.

3 THE WITNESS: Okay.

4 PRESIDING JUDGE: He said he lost two teeth.

5 MR KAMARA: Yes, Your Honour.

6 JUDGE BOUTET: Two or three?

7 MR KAMARA:

8 Q. Witness --

9 A. I lost two teeth and the one broken. And the one that is  
10 broken is disturbing me. Yes.

11 PRESIDING JUDGE: The Witness Protection Unit should take care  
12 of that.

13 MR KAMARA: Yes, Your Honour.

14 Q. Mr Witness, what about your brothers?

15 A. Well, my brothers I've lost them. They are dead.

16 Q. Were they at the scene where you've been chopped. I'm  
17 asking what happened to your brothers at that time?

18 A. My brothers, they were also -- they are killed. They  
19 have been axed with cutlass. They have been killed.

20 Q. Did you see that happen?

21 A. Yes.

22 Q. Now, after you've been chopped what happened to you?

23 A. Well, I dragged -- went to my aunt. I called my aunt.  
24 She came out and saw me and cried for me.

25 Q. Wait. And where were the Kamajors at this time?

26 A. Repeat that. I don't understand that.

27 Q. Where were the Kamajors that caused this havoc; where  
28 were they?

29 A. They were in the village. They came from the village to

1 the town.

2 Q. So you crawled to the house and then your aunt was  
3 crying. So what happened then?

4 A. From that time my aunts cried and they were afraid. They  
5 left the house. I don't know where they went.

6 PRESIDING JUDGE: Mr Kamara, he said they chopped his  
7 brothers. I am not very sure that we know what happened  
8 after them after they were chopped. He said they are  
9 dead.

10 MR KAMARA: Yes.

11 PRESIDING JUDGE: I mean, did they die on the spot or what  
12 happened?

13 MR KAMARA: We're coming to that, Your Honour. Slowly, Your  
14 Honour. Thank you, Your Honour.

15 Q. So your aunt and the rest left you there?

16 A. Yes.

17 Q. What did you do?

18 A. So I was lying near my brothers who were dead.

19 PRESIDING JUDGE: He went to the aunt.

20 MR KAMARA:

21 Q. You crawled to the house where your aunt was and then you  
22 told this Court that your aunt cried because she was  
23 scared. What did you do? You're telling us that you  
24 went to your brothers where they were dead. Please fill  
25 in the gaps, because now you are at the aunt's house.  
26 Did you have cause to come back to the scene?

27 A. Yes, I returned there. I went there for water. There  
28 was no water, so I went and drank the dirty water, the  
29 water with which we were washing. I drank the soap

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1 water, then I crawled back to near my brothers where they  
2 had been killed.

3 Q. So for how long were you lying beside your dead brothers?

4 A. I slept there 'til the other day.

5 Q. Now, Mr Witness, you did mentioned another person which  
6 is this Temne man. What happened to that Temne man?

7 A. Well, that Temne man he was also crying at that time. He  
8 didn't die that same moment, but when the Kamajors left  
9 he was crying. I was hearing his voice. He was crying,  
10 but I didn't know where he was.

11 Q. So you said you were there 'til the next day. What  
12 happened on that next day?

13 A. Well, the next day the ECOMOG came -- ECOMOG came the  
14 next morning. They found me lying there. One ECOMOG  
15 came down. He had a camera with him.

16 Q. Yes, now this ECOMOG officer came and you said he had a  
17 camera, what did he do?

18 A. He snapped us.

19 Q. Were you taken to the hospital?

20 A. Yes, well, they took me to the hospital during that time.

21 PRESIDING JUDGE: Yes, us? Who and who?

22 MR KAMARA: Yes, camera.

23 Q. Whose photograph was taken?

24 A. Well, they snapped the corpse.

25 PRESIDING JUDGE: That was the corpses of the brothers.

26 MR KAMARA: Of the brothers, yes.

27 THE WITNESS: He was taking a photograph of all of us, because  
28 he thought that I was also dead.

29 JUDGE BOUTET: How many of you are there at that moment?

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- 1 THE WITNESS: We are five.
- 2 MR KAMARA:
- 3 Q. So when you say five, I take it yourself, your two  
4 brothers, Sorie and this unknown Temne man?
- 5 A. Yes.
- 6 Q. You said you were taken to the hospital. Do you know who  
7 took you to the hospital?
- 8 PRESIDING JUDGE: What was that question, again? There were  
9 five.
- 10 MR KAMARA: Yes.
- 11 PRESIDING JUDGE: You said there were five. We know that the  
12 two brothers had died. He was alive. What about the  
13 others?
- 14 MR KAMARA:
- 15 Q. Now, Mr Witness, you mentioned that the five of you were  
16 lying there. You confirmed the death of your two  
17 brothers and you being alive. What about the other two,  
18 what was their state?
- 19 A. The other two were dead. Four of them died.
- 20 Q. So you were the only survivor?
- 21 A. Yes, I was the only one that lived.
- 22 Q. So who took you to the hospital; do you know?
- 23 A. Well, when the ECOMOG had been taking the photograph of  
24 us, I had to call the ECOMOG and he scared and he asked  
25 who called him and I said it was I that was calling him.  
26 So he came closer to me and he asked if I was a soldier,  
27 or a Kamajor or a devil.
- 28 Q. The ECOMOG asked you questions?
- 29 A. Yes.



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- 1 Q. Whether you were what?
- 2 A. If I was a Kamajor, if I was a soldier --
- 3 Q. If you were?
- 4 A. If I was a Kamajor, a rebel or a soldier.
- 5 Q. Were you able to answer to any of those questions?
- 6 A. Yes, I was able to answer and I told him that I was a  
7 civilian.
- 8 Q. So, Mr Witness, did you yourself during this conflict  
9 belong to any fighting group?
- 10 A. No.
- 11 Q. So back to the issue of the hospital, who took you to the  
12 hospital?
- 13 A. Well, it was my friend that took me to the hospital.
- 14 Q. And which hospital was it?
- 15 A. Bo Government Hospital.
- 16 Q. Do you know for how long you were in that hospital?
- 17 A. Yes. I don't know the real date that I was taken to the  
18 hospital, because by then I had lost my consciousness.
- 19 Q. So you don't know how long you spent at the hospital.  
20 When you regained consciousness, for how long were you  
21 there?
- 22 A. Well, I was there for about two months and some days.
- 23 PRESIDING JUDGE: He was in the hospital for two months?
- 24 MR KAMARA: Two months and some days, Your Honour.
- 25 Q. Now, Mr Witness, while you were at this hospital, did  
26 anything happen there?
- 27 A. Yes.
- 28 Q. Tell this Court.
- 29 A. Well, where I was admitted was where policemen were

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**6. BO – TF2-198**

1 MR. PRESIDENT:

2 Faint marks?

3 MR. WALKER:

4 Faint marks.

5 MR. PRESIDENT:

6 Go head, Mr. Caruso.

7 MR. CARUSO:

8 Thank you, Your Honour.

9 BY MR. CARUSO:

10 Q. Now, sir, where did they take you after you were tied?

11 A. They took me along Sikissi which is to a place that is called Y-Junction. They took me and my  
12 brother.

13 Q. When you arrived at Y Junction, what occurred?

14 A. That was the time when they tied me, took off my clothes, put it on my face, and they put fire in one  
15 original plastic and they started dropping it on my eye.

16 Q. Explain how they did that to us once again, just explain to the Court precisely how that happened.

17 A. After tying me, I will take my clothes so that people see where the plastic – the fire plastic had been  
18 dropping on my body. (*Witness shows body*). This is the place where the plastic that was ablaze was  
19 put on my body.

20 JUDGE BOUTET:

21 For the record, the witness has removed his clothing, has shown his shoulders, at the back of his  
22 shoulders.

23 BY MR. CARUSO:

24 Q. How long did this last, sir?

25 A. I was there for nearly 30 minutes, then they said, okay now they have done this to me. They say I'm  
26 going to tell them now what is happening at Y Junction. My younger brother -- my younger brother  
27 was put on the ground and he was lying and when I was crying --

28 MR. CARUSO:

29 May I approach him?

30 JUDGE BOUTET:

31 Go ahead.

32 MS. MONASEBIAN:

33 Your Honour --

34 JUDGE BOUTET:

35 Mr. Prosecutor.

36 MR. CARUSO:

37 Yes, sir.

1 says one was able to identify me and said that I was one of the people that came from Koribundu.

2 Q. Did you know that person?

3 A. Yes, if I see him right now I would be able to identify him.

4 Q. Did you know him as a *Kamajor*?

5 A. Yes, I know him very well, he's a *Kamajor*. Yes, yes, he was a *Kamajor* at that time.

6 Q. And tell us what occurred at that point when he identified you?

7 A. At that time when he identified me as somebody from Koribundu, they held me, they threw me to the  
8 ground, they beat me and when I was shouting, my younger brother woke up and he came and he  
9 peeped, they saw him and they said, "Oh, look at one Junta peeping." And they held him. They  
10 brought him out and they threw him to the ground, and they tied him, and they said we should be  
11 killed by Sikissi.

12 Q. How did they tie you?

13 A. They have one rope that's called FM, in fact, they tied me on the hand and in fact I still have the  
14 marks, and they would take your hands right at the back, he say, and if they tie you and turn the stick  
15 four, five minutes time, and even if you have not done anything they say, "You killed this individual,  
16 you will answer."  
17 MR. PRESIDENT:  
18 Excuse me, excuse me.  
19 MR. CARUSO:  
20 Yes, sir.  
21 MR. PRESIDENT:  
22 He has referred to a mark that a rope, you know, was tied and there was a mark.

23

24 Mr. Walker. Mr. Walker.

25 MR. WALKER:

26 Your Honour.

27 MR. PRESIDENT:

28 Can you please verify? See if there is a mark where he says. Does the witness say there was a mark  
29 left on his hand?

30 BY MR. CARUSO:

31 Q. Sir, did you say that you have marks left on your arm?

32 A. *(microphone not activated)*

33 Q. Just the mark on your arm from the rope.

34 MR. PRESIDENT:

35 Can you verify it – verify? Have you seen any marks there?

36 MR. WALKER:

37 Your Honour, there are what appears to be some very faint marks there, yes.

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**7. TONGO – TF2-035**

1 with the boy that he had given the gun to, the bullet to.

2 Q. Go on.

3 A. As I was standing, I remember that this man had passed an  
4 order for 150 to be killed, and it has been done. So I  
5 said if I stay with this man, he will certainly do what  
6 he plans to do. But if he took me to Tongo, nobody would  
7 know that he had killed me. So I said it is better for  
8 me to die here. So he passed an order to the boy that he  
9 should -- to the boy for him to shoot me. And the boy  
10 shot me.

11 Q. Have you been hit by any bullet?

12 A. Yes. Yes. Even as I'm speaking, there is one bullet  
13 lodged in my body. One is in my body. They removed  
14 four; one is still in my body.

15 Q. Does that mean that you have been hit by five bullets?

16 A. Yes, I was caught by five bullets. Yes, it was five  
17 bullets that entered my body.

18 Q. And what happened next after you were hit by the bullets?

19 A. I ran and went into the bush, and they pursued me. I was  
20 wearing a T-shirt, and I tied it. They were  
21 looking -- they were tracing me through the blood that  
22 was dripping. Where I tied the cloth around, there was  
23 some blood that they looked, and they couldn't trace me,  
24 and I went back to Tongo.

25 Q. So Mr Witness, you managed to escape?

26 A. Yes, I entered the bush. Yes.

27 Q. Thank you very much. You mentioned that Kamagboty gave a  
28 bullet to one of his boys by name Small Hunter. Could  
29 you describe this boy a little bit, as far as his age is

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**8. TONGO – TF2-048**

- 1 Q. Now after the Kamajor said this, what happened?
- 2 A. Then he cut off the ear.
- 3 Q. Whose ear are you referring to?
- 4 A. My elder brother.
- 5 Q. Did he do anything else?
- 6 A. [Inaudible].
- 7 Q. Madam Witness, did the Kamajor, after cutting your  
8 brother's ear, do anything else?
- 9 A. Yes.
- 10 Q. Could you please tell this Court what he did?
- 11 A. And my brother started asking, "Please, don't kill me."  
12 He said, "I have all my wives and children. I am  
13 controlling them." Then the Kamajor said, "I'm going to  
14 kill you."
- 15 Q. Did he kill your brother?
- 16 A. My brother knelt down to beg him and then after a time,  
17 he cut his -- they cut his throat with a machete and the  
18 Kamajor said [Krio words spoken]. I was standing there  
19 and I heard it all.
- 20 Q. What happened to your brother --
- 21 PRESIDING JUDGE: Please wait.
- 22 MS WIAFE:
- 23 Q. Madam Witness, did you see what happened to your brother  
24 after his throat was cut?
- 25 A. Yes.
- 26 Q. Please tell the Court what you saw?
- 27 A. When he was killed, they cut the -- they mutilated his  
28 body.
- 29 Q. Madam Witness, earlier on, you had said that the Kamajor



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- 1 who approached your brother had told him why he was going  
2 to kill him. What did he say?
- 3 A. Those who held him?
- 4 Q. No, the one who killed him, according to you, the one who  
5 killed him?
- 6 A. Because they were looking for Limbas and the Temnes and  
7 the locals, they are to kill them all.
- 8 Q. Madam Witness, what did you do after this?
- 9 A. I went to my sister. I told my sister that we should go.
- 10 Q. Did you leave?
- 11 A. Yes, and went to Mano Junction. That was the place we  
12 slept, because it was a far distance.
- 13 JUDGE BOUTET: What's the name of the junction?
- 14 MS WIAFE: Mano Junction. It is M-A-N-O.
- 15 Q. What was your final destination?
- 16 A. Where I went? I went to Kenema.
- 17 MS WIAFE: Your Honours, I have no more questions for this  
18 witness.
- 19 JUDGE BOUTET: Thank you. Cross-examination, counsel for the  
20 first accused.
- 21 PRESIDING JUDGE: Just a minute. Madam Witness, are you all  
22 right? I see you are sobbing, shedding tears. Do you  
23 want some assistance?
- 24 THE WITNESS: Yes.
- 25 JUDGE BOUTET: Council for the first accused, are you ready to  
26 proceed with cross-examination?
- 27 CROSS-EXAMINED BY MR YILLAH:
- 28 Q. Madam Witness, were you in Tongo from the period May 1997  
29 to January 1998?

**9. KENEMA – TF2-041**

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1 ask him in what connection?

2 MR SAUTER: I would prefer not to put this question -- not to  
3 expose this witness --

4 PRESIDING JUDGE: It is your case. You can proceed.

12:01:47 5 MR SAUTER: -- to the risk of being identified.

6 PRESIDING JUDGE: You can proceed.

7 MR SAUTER: Thank you.

8 Q. So after the commander has given the order to kill you,  
9 did anything happen to you?

12:02:02 10 A. Yes. They put a knife at the back of my neck again. My  
11 head was downwards. I didn't know where I was, and they  
12 cut it. I didn't know where I was.

13 Q. Could you observe what happened after you have been cut  
14 in the back of your neck?

12:02:41 15 A. Yes, they wounded me all over again with the knife and  
16 they left me there in the hands of God. I was only in  
17 the hands of God now.

18 Q. Did the persons who hurt you or cut you stay with you?

19 A. No, I didn't see them. They left me and I woke up --  
12:03:24 20 I got up.

21 Q. What did you do after you, as you say, woke up?

22 A. After I got up, I took my neck again, placed it in a  
23 [inaudible] position and took my shirt and tied it and  
24 I went to the place where they had caught me.

12:03:56 25 Q. Did you know what kind of injury or injuries you had?

26 A. Yes, they cut at the back of my neck and they wounded me  
27 all about it with knives.

28 Q. After you had gone to the place where you were caught,  
29 what did you do?

- 1 A. They were still chasing me. Then the moon was shining.  
2 They said if they caught me, they would kill me, and they  
3 would eat me. They chased me, but I was in the bush --  
4 they didn't see me.
- 12:04:49 5 Q. You said they did not see you?  
6 A. Yes.  
7 Q. Which means that they did not catch you?  
8 A. No.
- 9 Q. How long did you stay in the bush?  
12:05:14 10 A. It took about a week, because I was travelling at  
11 night -- I travelled about 12 miles until I reached the  
12 hospital.
- 13 Q. Pardon?  
14 A. Until I reached the hospital.
- 12:05:38 15 Q. Did you go by yourself to a hospital?  
16 A. No. When I went to the village, that I met Kamajors in  
17 that village, they said they were to kill me. Others  
18 said, "We know this man. He is from Blama." They wrote  
19 a letter to the town chief at Blama.
- 12:06:05 20 Q. Mr Witness, you are always speaking of "they" and "us"  
21 and so on. Could you explain to us who sent the letter  
22 to the town chief?  
23 THE INTERPRETER: Please go by the question again.  
24 MR SAUTER:
- 12:06:29 25 Q. Mr Witness, you said they wrote a letter to the town  
26 chief. Who wrote a letter to the town chief?  
27 A. The town chiefs that were in the village that I went.  
28 Because I said that I came from Blama, so they wrote a  
29 letter to the town chief in Blama that I was there

1 [overlapping microphones]

2 Q. [Microphone not activated] and the chief in the village

3 you were caught wrote a letter to the town chief of

4 Blama; is that correct?

12:07:24 5 A. Yes.

6 Q. And by whom were you were caught in this village -- by

7 which group?

8 A. It was the Kamajors who caught me in that village. They

9 were dressed in their usual dressing.

12:07:50 10 PRESIDING JUDGE: May we have the privilege of knowing the

11 name of --

12 THE WITNESS: -- they said they were going to kill me.

13 PRESIDING JUDGE: That is also a privileged question.

14 MR SAUTER: I would not like to ask this question, Your

12:08:03 15 Lordship.

16 PRESIDING JUDGE: Okay, thank you.

17 MR SAUTER: Not to identify --

18 PRESIDING JUDGE: Right, you may proceed, please.

19 MR SAUTER:

12:08:09 20 Q. Do you know whether the town chief of Blama has responded

21 to the other letter?

22 A. Yes. On that very day he wrote a letter to the other

23 chief that I should be brought to Blama for me to be

24 treated -- that I shouldn't sleep there that very night.

12:08:43 25 Q. And did they bring you to Blama?

26 A. Yes, the Kamajors brought me.

27 Q. And what happened after you reached Blama?

28 A. I went to the town chief who wrote the letter, and they

29 took me to the hospital for me to be treated.

1 Q. Could you tell us, please, for how long time you have  
2 been admitted to a hospital?  
3 A. Yes. I was there until July -- that's when I was  
4 discharged.  
12:09:29 5 Q. Can you remember whether you have been admitted to the  
6 hospital in February, or was it already March?  
7 A. It was in February after one week, that's when I was  
8 admitted.

9 Q. That means you had to stay in hospital from the end of  
12:10:00 10 February until July 1998; am I correct?  
11 A. It was not the end of February. I went there on the  
12 15th, I spent one week there, and I came back, and I was  
13 there till July. I spent only one week. They brought me  
14 on the 21st -- February -- the 22nd -- February -- to the  
12:10:46 15 hospital. That's the time they brought me.  
16 Q. 22nd of February?  
17 A. Yes.  
18 Q. Mr Witness, do you happen to know what happened to your  
19 colleague who, together with you, were brought before the  
12:11:06 20 commander in Blama?  
21 A. Yes.  
22 Q. Please tell us?  
23 A. I said just now that, when they brought us, he was the  
24 first person that they killed. In my absence, they  
12:11:32 25 caught another one. He, too, was a police. He, too, was  
26 killed, but I was not there -- it was my wife that told  
27 me.  
28 Q. Obviously, you are speaking about --  
29 A. When I was admitted in the hospital.

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## 10. KENEMA – TF2-151

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1 to sign my death warrant. I told him that I couldn't do  
2 anything with my hand. And Mr Magona took a pen and a  
3 paper and he wrote something, but I did not know what he  
4 wrote. And he said: Let me be beaten and put into the  
10:06:25 5 cell and at 8.00 he will come to kill me. He said he  
6 will come and kill me at 8.00 and nobody to ask him.

7 Q. And did anything happen next?

8 A. Yes, sir.

9 Q. Please, go on.

10:06:45 10 A. Yes, sir. They beat me. There were a lot of people  
11 around and they took me up the building. When I was  
12 taken up the building, I was put in the cell. They put  
13 me in the cell and I was in the cell; I was there for  
14 some hours. I was there when I started hearing some  
10:07:22 15 shots outside. I heard two gun shots. I sat in a corner  
16 and I started praying. It was not long afterwards I  
17 started hearing people saying, "Catch him, catch him,  
18 catch him." I was still in my cell. Just after that I  
19 heard somebody standing by the cell -- the door of the  
10:08:05 20 cell and he shouted my name. When he shouted my name, I  
21 did not answer, because I was with the impression that  
22 they had come for me so as to be executed. I was inside  
23 there. When --

24 Q. Mr Witness, try to be a bit slower again, please.

10:08:29 25 A. Yes, sir.

26 Q. Somebody shouted your name.

27 A. Yes, sir. So when this person shouted my name, I did not  
28 answer. This individual said in -- the individual had a  
29 Nigerian accent. The person said, "I don't think this



1 person is here, because I had called his name and he did  
2 not answer." And that was the time I answered, "Yes,  
3 sir."

4 Q. And did anything happen after this?

10:09:22 5 A. Yes, sir.

6 Q. Yes, would you tell the Court.

7 A. Yes, sir. Then they opened the door -- when they opened  
8 the door -- when I came out of the -- when I came  
9 outside, I saw that it was a Nigerian soldier; it was an  
10:09:50 10 ECOMOG soldier.

11 Q. Did he say anything to you?

12 A. Yes, sir. He said, "With orders from ECOMOG, you should  
13 be released and tomorrow morning you should report to  
14 ECOMOG high brigade." I was there released and I came  
10:10:18 15 down with my empty briefs. I alighted down -- I came  
16 down the building, and when I came down I met my wife, my  
17 boys of the shop and some other relatives waiting for me.

18 Q. I see. After this did you eventually go home?

19 A. Yes, sir.

10:10:38 20 Q. Now, you were advised to report at ECOMOG headquarters;  
21 is that right?

22 A. Yes, sir.

23 Q. Did you go there?

24 A. Excuse me, sir. The person that is interpreting in Krio  
10:11:07 25 is not making the correct interpretation.

26 MR BANGURA: Okay, Mr Witness, I will -- Your Honour, it  
27 arises from the fact that he understands English.

28 JUDGE BOUTET: Repeat your question.

29 MR BANGURA:

1 Q. Did you eventually go home after this?

2 A. Yes, sir.

3 Q. You were advised to report to the ECOMOG headquarters the  
4 next day; not so?

10:11:38 5 A. Yes, sir.

6 Q. And did you go there?

7 A. Yes, sir.

8 Q. Can you say what happened when you went there the next  
9 day?

10:11:51 10 A. Yes, sir.

11 Q. Please go on.

12 A. The following morning --

13 Q. Did you go to the ECOMOG headquarters?

14 A. Yes, sir.

10:12:13 15 Q. Tell what happened there.

16 A. When I went to the ECOMOG headquarters, I met the  
17 soldiers and they gave me space to sit. I sat there and  
18 one captain came. He called my name and he said whether  
19 it was I and I said "Yes, sir." And they said Mr Magona  
10:12:55 20 should be asked to come and I saw them bringing Mr Magona  
21 in front of me.

22 Q. Now, this Magona, was it the same person who had got you  
23 locked up in the cell the previous day?

24 A. Yes, sir.

10:13:14 25 Q. Yes, go on.

26 A. And the man asked me whether I knew him and I said "yes".  
27 And he asked him whether he knew me and he himself  
28 answered "yes", and they took me to the ECOMOG commander.  
29 When I was taken to the ECOMOG commander and the ECOMOG

1 commander asked what happened, that was the time I  
 2 explained to him. The ECOMOG commander sympathised with  
 3 me and said -- and he said, "Let that captain obtain  
 4 statements from him," and that I should be taken to the  
 10:14:10 5 hospital, and they there obtained statements from me.

6 Q. What happened next?

7 A. They took me to the hospital.

8 Q. Did you continue to get treatment from ECOMOG for your  
 9 condition?

10:14:27 10 A. Yes, sir, they continued to treat me, but it was just for  
 11 a short while.

12 Q. As a result of this, the tying -- keeping you tied up at  
 13 the CDF headquarters, now can you describe what your  
 14 present state of health is as a result of that tying up?

10:14:54 15 A. Yes, sir.

16 Q. Can you say?

17 A. There are things I used to do with my hands which I  
 18 cannot do any more because, for instance, if water is put  
 19 into a 34-centimetre bucket -- if I were to take this  
 10:15:34 20 bucket from here up to that point there, I would not be  
 21 able to, except if I asked somebody to do it. As for  
 22 now, when the place is too cold, my hands -- my hands are  
 23 weak. I will not be able to work at all.

24 Q. Now, you say if water is brought in a bucket and you're  
 10:16:00 25 asked to move it -- a 34-centimetre bucket and you're  
 26 asked to move it a distance, you now cannot do it. What  
 27 was the position before? You could do that before --  
 28 before this incident?

29 A. Yes, sir.

1 Q. Apart from your hands, is there any other condition that  
 2 you suffered as a result of the treatment you had from --  
 3 in the hands of the Kamajors?

4 A. Yes, sir.

10:16:39 5 Q. What else?

6 A. That is -- I have problems with my eyes.

7 Q. What exactly?

8 A. With all that had happened with me, initially --  
 9 initially I would do everything. In fact, I could read  
 10:17:10 10 Bible at night, but now I cannot even read the Bibles  
 11 that have small prints [sic] and some books. And after  
 12 7.00 I cannot -- I cannot continue with my profession, no  
 13 matter how bright the light is. I would find it very  
 14 difficult, you know, to pass a thread and at any time --  
 10:17:33 15 and at any time when I sit for a long time, my eyes keep  
 16 on itching.

17 Q. Thank you, Mr Witness. Now, you remember in your  
 18 testimony earlier, you mentioned that during the time of  
 19 your second arrest; do you recall?

10:17:53 20 A. Yes, sir.

21 Q. You said you were -- you felt like easing yourself and  
 22 you were brought out of the building and you came out and  
 23 you eased yourself; not so? You urinated outside?

24 A. Yes, sir.

10:18:11 25 Q. Can you describe the situation outside the building at  
 26 the time?

27 A. Yes, sir.

28 Q. Now after -- after your release on that second arrest,  
 29 were you -- did you at any time learn about what was

- 1 going on in the building that day?
- 2 A. Yes, sir, they explained to me what happened in the  
3 building during that time. It was my wife that explained  
4 to me.
- 10:18:42 5 Q. What did she say to you?
- 6 A. My wife explained to me that, "Do you know that that day  
7 when they tied your hands up there, when we were shouting  
8 up there, in fact, they were having a meeting down here  
9 and their chief was there in the meeting. I told him --
- 10:19:06 10 Q. Mr Witness, you have to slow down a bit. Go on, please.  
11 Now, she said to you the chief was there at the meeting.  
12 Who was this chief she referred to?
- 13 A. Mr Hinga Norman.
- 14 Q. Now, Mr Witness, apart from the incidents that you have  
10:19:37 15 narrated to this Court that you experienced personally,  
16 did you observe anything else in Kenema - at this time -  
17 that you wish to inform this Court about?
- 18 A. Yes, sir.
- 19 Q. Please do.
- 10:19:55 20 A. When I returned -- when I returned to Kenema after the  
21 intervention, after my first arrest I went to shop to go  
22 and watch to know what was happening in the shop. When I  
23 went to the shop, it was locked.
- 24 Q. Mr Witness, can you just give us a sense of time? When  
10:20:42 25 was this? You said after your arrest. How long after  
26 your arrest? Just let us know how long; was it a few  
27 days, please say?
- 28 A. Just some days after my arrest.
- 29 Q. Okay, go on, please.

1 A. I was in front of my shop. When I saw that it was  
 2 sealed -- one man and they had been shouting after him,  
 3 "Catch him, catch him, he's junta."

4 Q. Who were "they"? You said "they".

10:21:23 5 A. Some Kamajors.

6 Q. Yes, go on.

7	A.	A young man ran and went towards the Junction. As he was
8		approaching the Junction, that was the time they fired at
9		him and they chopped him. They placed tyres on him and
10:22:02 10		they burnt him. We all scattered from the scene.
11	Q.	Now, you say he was shot, who -- did you notice who shot
12		him?
13	A.	It was one Kamajor.

14 Q. Now, apart from this incident, is there anything else  
 10:22:26 15 that you noticed over this period of time -- that you  
 16 have narrated this incident. Is there anything else you  
 17 would like to inform this Court about?

18 A. Yes, sir.

19 Q. Yes, please.

10:22:44 20 A. With some time after that - the incident that I saw - I  
 21 saw another incident along Sumaila Street by KEDC field.

22 Q. Now, when you say "some time", can you give us a more  
 23 precise answer for what time you're referring to?

24 A. Just after -- just after the incident that I spoke about,  
 10:23:26 25 that I saw around my shop.

26 Q. Okay, go on, please.

27 A. I use that course in the morning as -- to go to my shop.

28 Q. That is Sumaila Street?

29 A. Sumaila, yes, sir.

1 Q. Yes.

2 A. So when I arrived, opposite the goal post at KEDC field  
 3 school, by the street I saw a lot of people standing and  
 4 watching. I saw some Kamajors, so I also became curious  
 10:24:25 5 and I stood over the street and I started watching and I  
 6 saw this Kamajor; he had a plastic bag, a transparent  
 7 plastic bag.

8 Q. Yes, did you notice anything in the plastic bag?

9 A. Yes, sir.

10:24:51 10 Q. What did you notice in the plastic bag?

11 A. There was meat in the plastic bag. So, when I saw this  
 12 plastic bag - the Kamajors holding it - I saw them  
 13 dragging one young man trying to put him in a hole just  
 14 at the back of the goal post. There was blood in the  
 10:25:21 15 Kamajor's hand and in the plastic bag.

16 Q. Now, what did you notice about this young man that they  
 17 were dragging into a hole?

18 A. They dragged --

19 Q. What did you notice about him?

10:25:40 20 A. The man was chopped.  
 21 Q. Was he alive?  
 22 A. He was dead.

23 Q. And did you learn anything about what had happened while  
 24 you were there?

10:25:55 25 A. Yes, sir.

26 Q. What did you learn?

27 A. From there I heard -- from there I heard that the  
 28 people -- the man was a Kamajor and that his heart had  
 29 been extracted and that his liver was what was in the

1 plastic.

2 Q. Now, did the Kamajors also dragging this body in the  
3 hole, did they do anything further?

4 A. Yes, sir.

10:26:32 5 Q. Please say.

6 PRESIDING JUDGE: I'm sorry, I heard about "liver", "liver".  
7 What is it, please? Let me get that clear.

8 MR BANGURA: Your Honours --

9 PRESIDING JUDGE: Let the questions -- let the witness, you  
10:26:48 10 know, explain what he meant -- something in the plastic  
11 bag.

12 MR BANGURA:

13 Q. Now, Mr Witness, you say you learned later --

14 THE INTERPRETER: Your Honours, would the witness please go a  
10:26:59 15 little bit slower so as to give the interpreter the  
16 opportunity to give the correct interpretation.

17 PRESIDING JUDGE: They say you should go slowly, please.  
18 Don't talk too fast, so they can interpret you. Have you  
19 heard, Mr Witness?

10:27:16 20 THE WITNESS: Yes, sir.

21 MR BANGURA:

22 Q. Now, you say that you learned at the scene that this  
23 person who was lying there, that what was in the bag was  
24 his liver and that his heart had been taken out of his  
10:27:32 25 body. Can you be very clear about this, please?

26 A. Yes, sir.

27 PRESIDING JUDGE: I want him to say it, not you.

28 JUDGE BOUTET: Maybe you can just take him back in time to  
29 that field.



1    PRESIDING JUDGE: Take him back. Let him give evidence. You  
2                      don't dictate to him what he has to say.

3    MR BANGURA: I am not, Your Honour.

4    JUDGE BOUTET: But if you would, please, just take him back to  
10:27:56 5                      when he saw the plastic bag and then let's move along.

6    MR BANGURA: As Your Honour pleases.

7    Q. Mr Witness, you came on the scene and you saw a Kamajor  
8                      holding a plastic bag; not so?

9    A. Yes, sir.

10:28:13 10    Q. And you saw something in that plastic bag which you said  
11                      was meat?

12    A. Yes, sir.

13    Q. Now, after this -- when you saw this, did you later learn  
14                      about what had happened to this person that you saw being

10:28:32 15                      dragged?

16    A. Yes, sir.

17    Q. Now, very slowly, can you explain and state to the Court  
18                      what you learned about this person? What had happened to  
19                      him?

10:28:52 20    A. This person -- I later on came to know that the boy that  
21                      was killed, his heart and his liver were the things that  
22                      were in the plastic bag that was in the Kamajor's hands.

23    THE INTERPRETER: Your Honours, the witness says he wants to  
24                      ease himself.

10:29:26 25    PRESIDING JUDGE: Yes, if he wants to ease himself -- the  
26                      Court will rise for -- you want to ease yourself? Yes,  
27                      the Court will rise for ten minutes, please. The Court  
28                      rises, please, and the record should reflect that.

29    [Break taken at 10.35 a.m.]

21725

**11. BONTHE – TF2-086**

21726

1 not seen much."

2 Q. When you heard the sound you said: "La ilaha ilaha  
3 mohamadura Sulilah; is that right?

4 THE INTERPRETER: Can you take the question, again, please.

16:40:56 5 MR BANGURA:

6 Q. When you heard this sound, this groaning sound, what did  
7 you say?

8 A. I recited the Koran, that's what I did. "La ilaha ilaha  
9 mohamadura Sulilah".

16:41:11 10 Q. After you said those words, did anybody say anything to  
11 you?

12 A. Then I said, in my mind that -- that, "Jitta. Oh,  
13 they've killed Jitta. Now, it is has all gone quiet,"  
14 and I said, "Eh, leave me alone so that I should be

16:41:41 15 working for you." They disagreed. Then Abu returned and  
16 wounded me on my head -- wounded me on my head. The  
17 wound is there.

18 Q. How did Abu wound you on your head?

19 A. He used the cutlass to wound me.

16:41:58 20 JUDGE BOUTET: For the record, the witness was indicating on  
21 the side of her head on the left-hand side.

22 MR BANGURA: Yes, Your Honour. I intend to get to a point  
23 where she might be able to show the Court scars.

24 JUDGE BOUTET: Just for the record, too, previously she  
16:42:15 25 indicated she had been injured on her arm and wrist, her  
26 right arm and wrist, just for the record.

27 MR BANGURA: As Your Honour pleases.

28 JUDGE BOUTET: Thank you.

29 MR BANGURA:

1 Q. Yes. So you said Abu took his machete and wounded you  
2 again?

3 A. Yes. On my head.

4 Q. On your head. And then did anything happen after that?

16:42:48 5 A. Yes. After he had wounded me on my head, I begged them  
6 for a long time. I begged them, but they refused. Then  
7 Jitta said, "These rebels, you wait, you've wasted a lot  
8 of time with them. These rebels you have wasted a lot of  
9 time with them. These people are from Bonthe. They're  
16:43:11 10 rebels. You are wasting time with them. If it were me,  
11 I would have finished with them."

12 Q. Did they do anything more to you?

13 A. After he had said that, after he had pierced me with the  
14 stick with my belly, again they returned and pierced my  
16:43:33 15 belly with the stick.

16 Q. Who did that?

17 A. Baigeh. Baigeh shoved the stick in my belly.

18 Q. Did anything else happen, Madam Witness?

19 A. Yes.

16:43:59 20 Q. What?

21 A. After they removed the money from me, then Baigeh wounded  
22 me on my neck, on my neck here.

23 Q. How did he do that? How did he wound you on your neck?

24 A. He used the machete to wound me on my neck and then  
16:44:20 25 I fell down.

26 Q. And then what happened?

27 PRESIDING JUDGE: Who was that?

28 MR BANGURA: Baigeh, Baigeh, one of five names she mentioned  
29 earlier.

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1 PRESIDING JUDGE: Wounded on the neck with what?

2 MR BANGURA: With a machete.

3 Q. And then what happened?

4 PRESIDING JUDGE: And then who took the money from her? After

16:44:44 5 they had taken the money, they had wounded her with a

6 machete. Who took the money?

7 MR BANGURA:

8 Q. Madam Witness, can you tell this Court who took the money

9 from you?

16:44:55	10	A.	Jitta took the money from me. It was Baigeh who wounded
	11		me. He killed me, because that is not wounding. As I am
	12		sitting down here I am sick. I couldn't do anything. I
	13		cannot bow my head and blood will be oozing from my
	14		nostril.

16:45:25 15 Q. Madam Witness, you were struck on the neck with a  
16 machete, and what happened next? You fell down, you say?

17 A. Yes, after I had fallen down, I lay down there 'til the  
18 night and through God's power I was able to get up. And  
19 I saw my jaw wounded, my leg was wounded and my waist was  
16:45:55 20 wounded, and even my shoulder was wounded as well.

21 Q. Hold on. You said you were able to get up. When did you  
22 get up? When did you get up after you had fallen down  
23 there?

24 A. At night. I knew -- night had already fallen, but I  
16:46:18 25 didn't know. It was God that roused me, but I didn't  
26 know what he did that I got up, but I didn't know  
27 where -- I knew where I was suffering wounds.

28 Q. You've just mentioned that you had wounds in different  
29 parts of your body. Were all those wounds inflicted on

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**12. TALIA/BASE ZERO – TF2-188**

21730

1 Q. Yes, please tell the Court.

2 A. When we were captured and taken away they took the load  
3 from where -- and they could not find any bullets in them and  
4 they took the loads and took them away. After that, then Kondewa

10:36:32 5 told his boys --

6 Q. wait. wait.

7 A. -- that they should capture my mother.

8 Q. Take your time, Madam witness, okay?

9 A. Yes.

10:36:58 10 Q. Madam witness, I am sorry that I may have to ask you some  
11 of these questions, but bear with me. I can see you are getting  
12 a bit emotional.

13 A. Yes.

14 Q. All right. You just informed this Court that Kondewa  
10:37:14 15 ordered your mother to be taken; is that what you said?

16 A. Yes. Yes.

17 Q. Who is this Kondewa?

18 A. If Kondewa is here I will point at him so that you will  
19 know and see him. But I have not really seen him here yet.

10:37:44 20 Q. Now, this Kondewa you have referred to, who ordered your  
21 mum to be taken. So what happened once your mum -- was she  
22 arrested?

23 A. When she was -- when she was held, then he said that man  
24 ordered that I should be held. Then once -- after she has said  
10:38:15 25 that I went to her, I was really not afraid. I met her.

26 Q. wait. Madam witness, I will advise again that you try to  
27 punctuate your evidence at short intervals.

28 A. Yes.

29 Q. You were telling this Court about an order being given to

1 the Kamajors with regards to your mum.

2 A. Yes.

3 Q. So, you went to your mum. what happened when you  
4 approached her?

10:38:59 5 A. Yes. when I saw her and I met her and they said they were  
6 going to kill her and I asked why they were going to kill her and  
7 they said after that -- after that she said that it was Kondewa  
8 that ordered that she should be killed.

9 Q. Your mum told you that Kondewa had made an order for her to  
10:39:21 10 be killed?

11 A. Yes.

12 Q. And that something will happen thereafter. what is that?  
13 what was it that will happen?

14 A. So after that I became very much worried. I did not ask  
10:39:48 15 whether what she did to her. After she said -- after she had

16 told me that I went there and to ask her. when I went there, I  
17 mean, one of his boys -- one of his boys --

18 THE INTERPRETER: She is going very fast. She's going too  
19 fast, My Lord.

10:39:58 20 MR KAMARA:

21 Q. Again, take your time; all right? Please. Now, you said  
22 an order was given for your mother to be killed. was she killed?

23 A. Yes. She was killed.

24 Q. were you there when she was killed?

10:40:32 25 A. I was there when she was killed.

26 Q. And bear with me, would you tell this Court how your mother  
27 was killed?

28 A. I will do that.

29 Q. Yes, who killed your mother?



- 1 A. Mohammed -- I saw Mohammed, but there were many others who  
2 really surrounded her and they were singing over her.  
3 Q. Are you referring to those kamajors?  
4 A. Yes.

10:41:06 5 Q. So, how was your mother killed?  
6 A. She was tied with -- she was tied up with the FM. Her  
7 hands were turned at the back and she was tied.  
8 Q. And what happened after she was tied up?  
9 A. One came with a stick and hit her on the side.

- 10:42:15 10 Q. Yes, carry on. She was hit with a stick on her side. Was  
11 anything else used by these kamajors?  
12 A. Yes.

13 MR KAMARA: Your Honours, I want to ask for a break to let  
14 the witness get --  
10:42:28 15 PRESIDING JUDGE: Can Court Management or witness Support  
16 Unit look after the witness, please. We are going to break for  
17 ten minutes. Thank you.

18 [Break taken at 10.42 a.m.]

19 [HN310505B - EKD]

10:47:00 20 [On resuming at 10.55 a.m.]

- 21 PRESIDING JUDGE: Madam witness, are you all right now?  
22 Can we proceed?

23 THE WITNESS: Yes, yes, yes.

24 PRESIDING JUDGE: Very well, thank you. Mr Prosecutor.

10:56:40 25 MR KAMARA: Thank you, Your Honour.

- 26 Q. Madam witness, we left at the point wherein you were  
27 explaining to the Court --

28 A. Yes.

- 29 Q. You were explaining to the Court the circumstance --

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**13. TF2-EW3**

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1 the screen shows you how we take down the earth in layers until  
2 we encounter the bones. The photo on the right - and this is a  
3 blow-up - is an overview of the three individuals just before the  
4 time that we removed them from the grave. We have one individual  
12:00:46 5 here lying -- two individuals lying face-up. This cursor doesn't  
6 work. I don't know what to do. Two individuals lying face-up on  
7 the left side of your screen and on the right side of your  
8 screen, an individual lying face-down. You will see an arrow in  
9 the picture. That arrow indicates the direction north. It is a  
12:01:12 10 convention we always use when we're doing this. You will see  
11 bags at the ends of the legs and hands. Those bags contain the  
12 hand bones and the feet bones, because when you encounter  
13 situations like this with the mud, when you find the hand bones  
14 and feet bones, it is a good technique to bag them up right away,  
12:01:39 15 otherwise you will lose them. They'll get lost in the mud, so we  
16 want to get all of the bones that represent the individual. You  
17 can see, also, with these remains, there is clothing associated  
18 with the remains.  
19 Q. For the record, this would be photograph 302 from the photo  
12:02:05 20 log?

21 A. Excuse me, yes, this is photo 302.

22 Q. Thank you.

23 A. The first victim we removed from the grave was  
24 Hatti Conteh. He received injuries to his head, a rather massive  
12:02:19 25 blunt-force injury and then a sharp-force injury to the head.  
26 The injury to the head, you can see on the right-hand side of  
27 your screen, it basically was a blow or multiple blows which  
28 really destroyed most of the bones of the face. Then there is a  
29 sharp-force injury indicated right along the brow line where the

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1 sharp instrument had cut into the bone. what is important to  
2 realise, I think, as you look at these pictures of bones, in  
3 order for a sharp instrument to make an imprint on a bone, an  
4 injury to a bone, it has to cut through soft tissues, muscles,  
12:03:17 5 nerves, blood vessels, organs of the body, dependent upon the  
6 position of the injury. So we always have to translate what we  
7 see on the bone into the soft tissues of the body that would have  
8 been impacted by the injury. The forensic pathologist's opinion  
9 on this case was that the sharp-force injuries were like  
12:03:49 10 chopping-type injuries. To the right side of the face,  
11 blunt-force trauma to the face. "Cause of death is due to  
12 massive facial trauma that would have resulted in massive blood  
13 loss as well as asphyxia due to trauma to the face. The manner  
14 of death is homicide." In this kind of case, you would get a lot  
12:04:10 15 of bleeding and a lot of bleeding would go down the airways and  
16 the back of the pharynx, et cetera.

17 Q. Just before you finish this, are you in a position to  
18 explain what is --

19 A. Oh, asphyxia. Excuse me. Asphyxia in this case would be  
12:04:33 20 basically a blockage of the airways. The blood would get down  
21 into the trachea and into the bronchials of the lungs and you  
22 would be unable to breathe air, so you would smother - not  
23 smother, but you would die from lack of oxygen.

24 PRESIDING JUDGE: which --

12:04:58 25 THE WITNESS: I might point out, these diagrams do not  
26 appear in the report. I just did this for presentation purposes  
27 as an afterthought in a way to expedite showing you the trauma.

28 PRESIDING JUDGE: when we looked at the exposed remains  
29 photo, log photo 302.

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1 right. We see three separate blows from some sharp-like object.  
 2 We have this "X" configuration towards the right. One has  
 3 basically split the back of the head open and then another  
 4 diagonal blow across it, and then another sharp-force injury  
 12:12:25 5 towards the bottom of the picture, just above the word "sharp" in  
 6 the caption of the picture. This is a blow-up of that particular  
 7 injury. This appears in image number 354-0585. It is another  
 8 one of those situations where you can see a nice straight side to  
 9 this injury, but then you see the broken off part as the  
 12:12:55 10 implement was pulled out of the wound and broken a part of the  
 11 bone.

12 Then on the right side of the face, image number 0426, as  
 13 it appears in the report, I've blown up that image so that you  
 14 can see the difference between a sharp-force injury when you look  
 12:13:21 15 at the margins of the wound. Now, towards the top, those are  
 16 natural suture lines. This blow actually hit the side of the  
 17 face and broke the bones up here [indicates] and there is  
 18 actually a suture that goes across here that allows the head to  
 19 grow as an infant. Sometimes it remains relatively -- it doesn't  
 12:13:54 20 fuse together, but it just remains interdigitated together and a  
 21 blow like this might separate that. That is what we're seeing.  
 22 Some of this might be exaggerated by the post-mortem -- the way  
 23 it rested in the grave and that. Anyway, the rough edges, and  
 24 you will see when you look at these edges very closely, the blunt  
 12:14:15 25 trauma towards the end of that margin, you will have parts of the  
 26 bone bent in the direction of the blow, et cetera.

27 Yamba Conteh, case number MHB-C-02, the pathologist's  
 28 opinion was, "Most likely the deceased was struck in the left leg  
 29 first in order to incapacitate him before receiving the other

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12:15:12 1 blows (chops). The injuries to the left ulna and radius and the  
2 second through fourth metacarpals" - the bones in the hand - "are  
3 consistent with defence wounds incurred while the deceased was  
4 trying to ward off blows to his head and face. The cause of  
5 death is due to severe brain injuries and exsanguination," which  
6 means bleeding or haemorrhage. "The manner of death is  
7 homicide."

12:15:34 8 The last individual, Alpha Conteh, MHB-C-03 has, as you  
9 see, a similar pattern of injuries and I've indicated those with  
10 soft force and blunt force. But having seen the previous case,  
11 you can then look at the report and you can see what I've gone  
12 through and explained and the one case in more detail.

12:16:02 13 For this individual, the pathologist's opinion was the  
14 sharp-force injuries to the left frontal cranium and trauma to  
15 the mid-body. That means the mid-body or the middle of the rib.  
16 The rib has two ends and in between is the body of the rib. So  
17 the ninth through the tenth ribs have cut marks on them. The  
18 back -- the head of the humerus, the blow to that scapula or  
19 shoulder blade also went through the top part of the humerus -  
12:16:36 20 that's the big bone in the arms - to the head of the humerus, the  
21 ball part of the socket, and to the posterior acromian process,  
22 which was that part also of the shoulder blade, and the  
23 blunt-force trauma to the right temporal cranium and right side  
24 of the face. "These injuries would have resulted in severe  
12:16:57 25 trauma to the brain as well as severe bleeding and would have  
26 resulted in death. The cause of death is due to sharp and  
27 blunt-force injuries to the face and head. The manner of death  
28 is homicide."

29 The survivor had a similar pattern of injuries, if you

**ANNEX E****Exhibits Relevant to Sentencing**

<b>Exhibit No.</b>	<b>Title</b>	<b>Date admitted</b>	<b>Description</b>	<b>Judgement Reference</b>
86	Situation Report, 16 November 1997	5 May 2005	Report for Norman from Secretary General, CDF.	Paras 309, 375, 377, 378
105A, B, C	Reports of the UN Secretary General, 12 August 1998	28 July 2005 (92 <i>bis</i> )	Report regarding child soldiers in CDF, poor discipline and disarmament, demobilization and reintegration plan (DDR).	
110A, B, C, D	Human Rights Watch "Getting Away With Murder, Mutilation and Rape" July 1998	28 July 2005 (92 <i>bis</i> )	Abuses committed by CDF, recruitment of child soldiers and DDR.	
111A, B, C	Mazurana, Dyan and Dhistopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January 2004	28 July 2005 (92 <i>bis</i> )	Violent conflict and the rise of the CDF, women and girls in fighting forces, women and girls as full members of the CDF.	
115A, B, C	Sierra Leone Humanitarian Situation Report, 7 August 2000	28 July 2005 (92 <i>bis</i> )	Authorities currently investigating cases linked to the Kamajors, CDF mistreating civilians, extortion and lawlessness in Moyamba, Kenema and Bo.	
116A, B, C	Amnesty International, "Sierra Leone – Childhood- a casualty of conflict," AFR 51/69/00, 31 August 2000	28 July 2005 (92 <i>bis</i> )	Use of child combatants in the internal armed conflict, former child combatants fighting with the CDF, military assistance to government forces.	Para. 688
117A,B	Human Rights Watch, "World Report, 1999: Sierra Leone, Human	28 July 2005 (92 <i>bis</i> )	CDF committed numerous offences, including indiscriminate	

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<b>Exhibit No.</b>	<b>Title</b>	<b>Date admitted</b>	<b>Description</b>	<b>Judgement Reference</b>
	Rights Developments”		killings and torture, many child soldiers among the Kamajors.	
118	Inter Press Service, “Children – Sierra Leone: Militia Admits Recruiting Child Soldiers,” Lansana Fofana, 29 June 1998	28 July 2005 (92 <i>bis</i> )	Kamajors admit recruiting child soldiers to fight the ousted military junta.	



26/5/2005  
SCSL-04-14-J  
SCSL/ERN/86  
TF2-079

FROM: The Secretary General  
Sierra Leone Civil Defence Forces (S.L.C.D.F.)  
Zone II Operational Front Line  
DODO/Lower Bambara Chiefdoms.  
Kenema District.

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TO: The Honourable Chief Sam Hingaah Norman  
Deputy Minister of Defence and Co-ordinator  
Sierra Leone Civil Defence Forces (S.L.C.D.F.)  
Republic of Sierra Leone - West Africa.

16th November 1997.

Dear Sir,

SITUATION REPORTS AS AT 16th NOVEMBER 1997, AND THE VIOLATION OF THE CONAKRY PEACE ACCORD BY BOTH THE ARMED FORCES REVOLUTIONARY COUNCIL (AFRC) AND THE REVOLUTIONARY UNITED FRONT (R.U.F.)

With honour and Maximum respect Sir, I do herewith forward you this letter, in relation to the above subject matter. To start with, let me first and foremost thank you for and on the behalf of all the civil defence forces from the Chiefdoms of Dodo, Lower Bambara, Simbari, Wandor, Kando Leppiana, Kangama, Gerama, Gerama Mende and part of Nongowa (ie. Bassara, Massao, Bambawo and Largo Townships) who are bravely fighting against both the AFRC and RUF to liberate Sierra Leone - Our beloved Country in the Zone II Front Line under the supervision and brave Command of both the Commander-in-Chief - Musa O.M. Tunisa and the Deputy Commander-in-Chief - Mohamed O. Moosa. I thank you very much indeed for throwing your huge weight behind our front line security strength, and for providing the most needful logistics for us to an extent and hasn't being for that all the Chiefdoms mentioned should have been ruined by now and completely devastated by the AFRC and the RUF. Once again, let me also thank you for receiving our brother here whom we sent to you in Zimmi Months ago especially for the Military training they undergone and returning home again in good spirits. May the Almighty Allah bless, help, guide and protect you.


For your information and documentation, please receive our situation reports in good spirit and without any fear, in outlining all activities of about five thousand (5000) Civil Defence Forces (S.L.C.D.F.) of Dodo and Lower Bambara Frontline, commencing from the time of the ammunition consignment dispatched and arrived in Tama

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town in Dodo chiefdom, for all operations now in progress, unto the present date of writing.

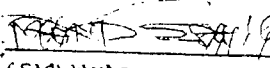
May the Almighty Allah moved us towards speedy victory in our endeavours to liberate Sierra Leone - our beloved Country and to returning this Country the Constitutionally elected Government of S.L.P.P. headed by president Ahmed Tejan Kabbah.

With kind regards.

Sincerely Yours  
Abu Bakarr Kromuwa  
SIG.  16/11/97.  
(SECRETARY GENERAL)


ENDORSED BY:

1. Musa O.M. Tunisa

SIG.  16-11-97  
(COMMANDER-IN-CHIEF)

00003721

2. MOHAMMED O. MOOSA

SIG.  16/11/97  
(DEPUTY COMMANDER-IN-CHIEF)

FROM: Sierra Leone Civil Defence Forces (S.L.C.D.F)  
Zone II Operational Frontline  
Dodo and Lower Bambara C/Doms.  
Kenema District

21742

00003722

TO: Honourable Sam Hingah Norman  
Deputy Minister of Defence and Co-ordinator  
Sierra Leone Civil Defence Forces (S.L.C.D.F)  
Republic of Sierra Leone - West Africa.

16th November, 1997

Dear Sir,

SITUATION REPORTS AS AT 16th NOVEMBER, 1997.

Please receive these reports of the activities of the S.L.C.D.F. Kamajors loyal to the ousted Government of the Constitutionally elected Sierra Leone Peoples Party (S.L.P.P) headed by President Ahmed Tejan Kabbah, in their untiring efforts to liberating this Country from both the AFRC and RUF being ignored and rejected by the Regional Power - ECOWAS and the international Communities. These reports are as follows: -

1. THE OCCUPATION OF PANGUMA TOWN:

Eversince the fighting between the Civil Defence forces of Zone II and the AFRC/RUF Rebels in Panguma on the 19th September 1997, in which case we captured the town ~~and~~ and deployed there for a week, we after all withdrawn tactically to Dodo Town because of logistical and welfare problems. Hence Panguma remained a ghost town; to some extent a place of 'no-go'.

On receiving the cache of arms and ammunition from our brothers who returned from Talia, Yobeko in the ~~Kenema~~ <sup>Bonthe</sup> District with much happiness and jubilation, our dear Commanders-in-  
chief made a fair and reasonable distributions to the respective and brave commanding officers of various operational areas we have located in these parts of the Kenema District.

However indeed on Sunday 2nd November, 1997 over five thousand Kamajor Militia men finally entered and occupied Panguma town for permanent deployment, and thus deployed at all Ops areas of strategic importance and then diverged their strength unto Bumpoh a village closed to Tongo Field. Prompt deployment teams were also sent to Njagbema and Soaraylah to consolidate Panguma defences.

## 2. GIVEIHUN ATTACK:

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On the 6th November, 1997, about thirty-two (32) S.L.C.D.F. Kamajors led by Patrol Commander - Mualimu Mohamed Kanneh, who were armed with one (1) R.P.G. Muzzle and Bombs, Assault Rifles and Matchetes, attacked the AFRC Rebels in Giveihun at about 4:00 P.M. in their efforts to breach the Kenema Main Motor Road, that leads to Tongo.

After a brief engagements in hours of battles, the Rebels were defeated and driven out.

Two Trucks loaded with four bags of onions, Rice etc were captured and burnt later on.

Some A.K. 47 Ammos, Two G3 Rifles and Two R.P.G. Bombs were and conveyed to our Main Base.

## 3. THE TALAMA AMBUSH:

Information received on the 6th November, 1997 that a host of Junta forces who had already attacked and burnt houses in Guala Village, were advancing towards our main Base at Talama Town. The Base Commanding Officer - Kellura Amara and Ten (10) S.F.Nong Kamajor Militia Men, armed with assault rifles, R.P.G. launchers and Matchetes, advanced and ambushed Junta forces before they could advance to Talama a small town close to Panguma. After about several hours of battles, the Junta forces were defeated, thus they were defeated.

## 4. KANGAMA GORAMA - S.L.C.D.F. ON THE KONO HIGHWAY:

The Main Motor Road of Tongo - Kono has been blocked and man by Kamajors of about 150 men headed by - Sahr Ndapi of Kangama Gorama since early this month.

On the 9th November, 1997, three (3) Truck loads of heavily armed AFRC soldiers and Peoples Army Rebels ~~left Tongo~~ left Tongo and attacked our main Base at Meimandu. After about 45 minutes of serious exchanging of artilleries, about twenty-eight (28) bodies of AFRC and PA were discovered and five of them were captured alive.

One (1) R.P.G. Muzzle, two (2) Bombs, two (2) AK guns, one X.L. Honda but was eventually burnt down.

In the evening at about 4:46 pm. our Kamajors encountered another attack by AFRC Rebels in two (2) Truck loads of another heavily armed Rebels from Kono. Heavy fighting again resumed which lasted for about an hour and thirty minutes. In the battle that ensued 17 AFRC Rebels were killed and one of them captured alive.

We suffered any casualty.

Two (2) of their R.P.G. Bombs, one (1) Hand Grenade was captured and also one of their vehicles that was burnt later on.

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5. THE ACCIDENTAL DEATH OF OUR KAMAJOR - FODAY SAFFA:

On the night of the 9th Nov. 1997, three (3) Kamajor Police (KPS) were ordered by their Commanding officer of Swarayallah Base - Mr. Reggie F. Watters - a very brave Kamajor Militia Man. These KPS were ordered to arrest some unruly Kamajors at Swarayallah Base, which led to a stampede in which case Foday Saffa got collided in darkness with another sword bearing Kamajor. Foday Saffa sustained a fatal wound to his stomach and died some 15 minutes later. The other Kamajor also sustained a severe head injury.

6. THE CAPTURE OF ONE AFRC AGENT:

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On the 9th Nov. 1997, the Patrol Commander of Panguma Ops - CO. Siaka Lahai and eight of his Kamajor militia men, Patrol a vast area into Gbeegiana Village, these Kamajors were armed with assault rifles and one R.P.G. Launcher. They entered that village without incident. There upon one Junta agent was captured. This agent was in possession of a large number of AFRC Market due tickets. After the captured Agent Robert Ndanema accepted complicity with the AFRC/RUF Rebels, he was eventually given summary execution.

7. AFRC AND RUF'S PEOPLES ARMY (REBELS) ATTACK OUR MAIN POSITIONS IN PANGUMA TOWN AND WE DEFENDED OURSELVES:

On the 10th November, 1997, the Junta Forces (Rebels) from Tongo Fields inflicted a simultaneous attack upon us, in both Panguma and Talama Towns about 2:15 PM. These rebels were approximately about 300 in number backed by a host of unarmed civilians, to give them other assistance. Kamajor Militia Men were mobilised by their brave CO - Siaka Lahai. These rebels were properly armed with assault rifles - both light and heavy machine guns, R.P.G. Launchers and hand mortars. The Kamajors armed themselves with assault rifles, single barrels and R.P.G.s to man the situation.

After an hour of serious battle and heavy artillery exchange, the attack of the rebels was eventually halted. The rebels then took to their heels.

One of our Kamajors was killed in action and three (3) wounded in that same action.

The enemies suffered heavy casualties including over twenty (20) of them killed in action.

One (1) G3 Rifle (No. 63 FMP 354254 - 1078) and one (1) AK-47 Rifle (84224) were all captured from the rebels.

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### 8. BREACHING OF THE TONGO - KENEMA HIGHWAY AT PUJEHUN VILLAGE:

A large Patrol team of Eighty-six (86) Kamajors armed with Machetes, Assault Rifles, and equipments such as shovels, pickaxes and one Power-saw, were all led by another Patrol Commander - Ibrahim D. Sama, to Pujehun village on the 11th Nov. 1997 and encountered the rebels, a brief engagement neutralized.

Two huge Cotton Trees were felled on this main Kenema Road.

The bridge was removed as to make the situation worsened for the rebels.

The Operation lasted for the whole night of 11/11/97.

One A.K. Rifle was captured.

One Rebel killed in action.

Three houses in that village where the rebels used to dwell were razed to the ground.

### KANGAMA GORAMA S.L.C.D.F. ON THE KONO HIGHWAY AGAIN.

9. On the 12th Nov. 1997 another heavily armed soldiers attacked Kangama Kamajors in to truck loads of AFRC Rebels attack, this time, they came from Kono to re-enforce Tongo.

Another serious confrontation occurred between our Kamajors and those rebels.

The battle lasted for about one hour. Five (5) Rebels were killed.

There was no casualty on the side of the Kamajors.

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The survived rebels took to their heels in the bushes and Kamajors chased them.

These rebels burnt houses in the villages of the chief Kamajor of Kangama - Meinmandu, Bandama, Lungu Dawabu Torbu and Senehun villages were burnt by the rebels. They looted and vandalised other villages as well. Most women were raped by the rebels. However, our Kamajors chased them and capture one rebel alive, who was latter on executed.

10. CIVILIANS EXPRESSED THEIR LOYALTY AND SUPPORT FOR OUR VICTORIOUS OPERATIONS IN PANGUMA TOWN.

The People of Panguma Town who had until recently been living in hideouts (SORKNIEHUN) emerged on Friday 14th November, 1997 to express and consolidate their loyalty and support for our successful operation on the ground. The women have harvested and presented to the Co. on the ground - Siaka Lahai, sacks filled of rice for the welfare of the Kamajors. Most civilians have returned to their homes in Panguma, especially when at a time Kamajors repelled a massive attack by the Junta Rebels.

11. BLOCKING OF THE TONGO - KENEMA HIGHWAY VIA KAMBOMA:

On Thursday 13th November, 1997 about one hundred and twenty-two (122) Kamajors led by Patrol Commander - Mualiru Mohammed Kanneh, led a surprising attack on the rebels that have been in control of both Kamboma old and New Townships. Kamajor Militia men attacked these rebels and seized the townships; inflicting heavy casualties on them. Our Kamajors captured a cache of arms and ammunition, a Radio Communication set and its solar battery. The following morning 14th Nov. 1997 the Rebels inflicted counter-attack on us, that ran into a Kamajor ambush but such was beaten back. In the road blocking operation, the Power. Saw felled only one big Cotton tree and the main road became faulty.

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Meanwhile, information was revealed that Junta Rebels were mobilising at neighbouring Manjuction to regain control over Kamboma Towns again. However, Patrol team of Kamajors led by CO- Ibrahim D. Samma and Twenty-eight Kamajors has been ordered to re-enforce Kamboma. The Kamajors arrived in Kamboma at dusk during which period the New Town of that village along the Kerema main Road was attacked on two directions by Rebels. Kamajors made a tactical withdrawal to Panguma Base. Four (4) Kamajors were wounded in action.

The followings were captured from the Rebels:-  
One (1) Radio Communication set and Solar Battery.  
Five (5) Rifles (63 and 4 AK-47).

One (1) R.P.G Launcher (5381 - 1097) and five (5) Bombs.  
Several documents belonging to the AFRC and KUF  
Rebels.

Twenty (20) of them were killed in action, including one Officer - a lieutenant, whose buttons are on the ready for presentation to you.

Honourable Minister of Defence, these are the development and success made ever since you rendered to us that kind of meaningful assistance, for your information Sir.

Once again, let me thank you very much indeed for and on the behalf of all brave Kamajors on the ground here. May God bless you and your Boss. With regards.

I remain  
Abu Bakar Kono  
SIG. ~~AKW~~ 16/11/97  
(SECRETARY GENERAL)

ENDORSED BY

1. Musa O.M. Nussa  
SIG. ~~AKW~~ 16-11-97  
(COMMANDER-IN-CHIEF)

00003727

2. Mohamed O. Moosa  
SIG. ~~AKW~~ 16/11/97  
(DEPT. COMMANDER-IN-CHIEF)



~~SECRET~~ 12/19

16-11-97

21748

HONOURABLE CHIEF SAM HINGAM NDEMAH  
DEPUTY MINISTER OF DEFENCE AND CO-ORDINATOR  
SIERRA LEONE CIVIL DEFENCE FORCES (S.L.C.D.F.)  
REPUBLIC OF SIERRA LEONE  
WEST AFRICA.

00003728

SCSC-04-14-T

SCS/ERN/105  
28/07/2005

Reports of the UN Secretary General

14. 12 August 1998

21749

3 PARTS

105 A

105 B

105 C

21750

civilian population, whom they threatened to use as human shields in the event of a counter-attack. No mutilations have been reported.

15. During the past few weeks, ECOMOG has inducted fresh troops into the Kenema sector in south-eastern Sierra Leone, with a view to reinforcing its presence near Kailahun. The deployment of an additional brigade, comprising three battalions, has enabled ECOMOG to mount more aggressive patrols, at times in conjunction with the Sierra Leonean Civil Defence Force. ECOMOG has also reinducted former Republic of Sierra Leone Military Forces (RSMLF) personnel, amounting to approximately three battalions, or 2,500 men, alongside its own troops to assist with the protection of supply lines and, in some cases, in combat duties. The provision of logistical assistance to ECOMOG, thanks to the bilateral contribution of the United States of America, has helped to improve operational capacity. ECOMOG has also been withdrawing exhausted troops with a view to rotating them. Nonetheless, ECOMOG, with an estimated 10,000 troops in theatre, is still overstretched and in need of significant additional logistical support, in order to contain the rebels and restore and maintain order in the eastern and northern parts of the country.

SCSL/GRN/105A

16. While the Civil Defence Force is nominally under the command and control of ECOMOG, reports continue to be received of unruly or criminal behaviour on the part of some members of the Force outside their own home districts. Strains that developed between ECOMOG and the Civil Defence Force in some places appear to have been successfully resolved or contained through the intervention of senior commanders. Some members of the Force have also been accused of human rights violations and criminal acts, including looting, confiscation of vehicles and civil disturbances, although allegations of summary killings and the torture of prisoners have dropped sharply since the end of May, apparently as a result of intervention by the Government and ECOMOG. The Civil Defence Force has made a commitment to end its practice of recruiting and initiating child soldiers, who comprise a high proportion of their ranks and who have been sent into combat.

### III. ACTIVITIES OF THE UNITED NATIONS

#### Deployment of UNOMSIL

17. Pursuant to the creation of UNOMSIL by the Security Council by resolution 1181 (1998), I wrote to the President of the Council on 16 July 1998 to inform him of the countries that were contributing observers to the mission (see S/1998/673 and S/1998/674) and of the appointment of Brigadier-General Subhash C. Joshi (India) as Chief Military Observer. In accordance with paragraph 9 of resolution 1181 (1998), I took advantage of the presence of President Kabbah at the special conference on Sierra Leone, held at Headquarters on 30 July 1998, to propose to him the terms of a status of mission agreement. As I informed the President of the Security Council in my letter of 3 August 1998 (S/1998/714), the Minister for Foreign Affairs of Sierra Leone, Mr. Sama Banya, at once replied indicating his Government's acceptance. As I also mentioned in my 3 August letter, on the basis of the Government of Sierra Leone's programme for the disarmament, demobilization and reintegration of former combatants, issued to participants at the special conference, I have

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On 12 July alone, in a village near Masingbi, some 40 houses were destroyed. As noted above, the rebels also destroyed property in Kabala at the end of July.

38. The rebel campaign of terror and their military activities have resulted in the displacement of at least 350,000 people since February. Some 250,000 of these are now in Guinea and Liberia and the remainder are internally displaced in Sierra Leone. The persistence of the rebellion not only prevents their return, but also causes grave humanitarian problems for a significant element of the displaced population, as described in more detail below.

Treason trials and the administration of justice

39. The State is prosecuting 58 persons in the regular courts on a range of charges including treason, murder and arson, and two further trials are scheduled to begin soon. All defendants, if found guilty, face the possibility of the death penalty. The trials are proceeding against a background of widespread public anger and a desire for quick justice.

40. The court martial of 38 soldiers has begun before a judicial panel comprising Sierra Leonean army officers and presided over by a Judge Advocate who is an ECOMOG officer. Early concerns regarding procedure were speedily rectified by the Government after they had been raised by UNOMSIL, which continues to monitor both the courts martial and the proceedings in the regular courts. UNOMSIL is also continuing to persuade the Government to establish a channel for judicial appeals from court martial findings.

41. The Government concedes that the judicial system in Sierra Leone is entirely inadequate. Outside Freetown, the courts are not functioning at all and the traditional court system has collapsed. Sustained support will be needed to restore the judicial system in keeping with Sierra Leone's distinguished legal traditions.

42. There are six functioning prisons in Sierra Leone, but prisoners are also held in an unverifiable number of other facilities, including military camps. Most detainees in civilian facilities are being held pursuant to the emergency powers legislation introduced by the Government shortly after its restoration in March 1998. Conditions in many facilities are overcrowded and unsanitary and the food and medical care are inadequate. About 2,000 prisoners are being held in Freetown.

43. Reliable reports are being regularly received of poor discipline within the Civil Defence Force. In various locations throughout the country they have been accused of harassing the local population and engaging in extortion. It has also been reported that the initiation of new members, including children between the ages of 15 and 17, occurred near Magburaka during the third week of July. ECOMOG has established a complaints procedure to investigate any allegations of harassment of the local population by ECOMOG troops.

44. UNOMSIL has commenced a human rights technical cooperation needs assessment and has already identified widespread requirements, many of which should be addressed as a matter of urgency. These include the need for human rights education for government officials, traditional leaders, police officers,

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55. The deployment of the first phase of UNOMSIL's 70 military observers and their equipment is also well under way. I am grateful to the troop-contributing countries for the dispatch with which they have acted in making these personnel available.

56. In my report of 9 June (para. 69), I identified three criteria which would govern subsequent deployments of military observers: the security situation, the progress of implementation of the Government's disarmament and demobilization plan and the availability of the necessary logistical equipment and resources. As I indicated then, I am keeping all three criteria under very close review and will keep the Council informed of all relevant developments while preparing for the next phase of the deployment. I am heartened by the progress made by ECOMOG in improving the security situation in the countryside, especially in eastern Sierra Leone, and renew my call to donors to contribute to ECOMOG's logistical requirements.

57. In this context, I am gratified by the success of the special conference on Sierra Leone, held at Headquarters on 30 July 1998, and look forward to working closely with the international contact group to be established to coordinate further support for Sierra Leone. In the meantime, I reiterate my call to donors to contribute to the Inter-Agency Appeal for Humanitarian Assistance to Sierra Leone in order to assist Sierra Leoneans in meeting their most basic and urgent needs.

58. The sharp reduction in human rights violations perpetrated by elements of the former junta since the end of June is to be welcomed, but I remain deeply concerned about the plight of innocent civilians in the country, who may still be suffering from the depredations of the rebel forces or at risk from future attacks. In parallel with the efforts being made by ECOMOG to restore law and order throughout the countryside, I continue to believe that every effort should be made to end the threat posed by the rebels.

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59. For this reason, I believe that the disarmament, demobilization and reintegration plan adopted by the Government, and to be implemented with the assistance of ECOMOG and UNOMSIL, represents the best hope in the immediate future for consolidating the stability of the country and bolstering the authority of the Government throughout the territory of Sierra Leone. I therefore reiterate the plea I made on 30 July at the special conference for the donor community to lend every possible assistance to the Government in carrying out its plan. I welcome the commitment of the Government and the Civil Defence Force not to recruit children under the age of 18 as soldiers or to send them into combat, and urge them to implement their undertaking to demobilize any children currently under arms as soon as possible.

60. The development of technical capacity by the Government in the field of human rights deserves support. The results of a technical cooperation needs assessment performed by the office of my Special Representative reveal training needs. I encourage donors to assist the Government in meeting these needs.

61. Pursuant to resolution 1181 (1998), I will continue to keep the situation in Sierra Leone under close review and report to the Council on developments there and on the progress made by UNOMSIL.

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**Abuses Committed by Members of Civilian Defense Forces (CDFs)**

Human Rights Watch documented numerous abuses, including killings and torture, by members of the Civilian Defense Forces, frequently referred to in local dialects as "traditional hunters." Civilian Defense Forces were developed primarily in the early 1990s as local protection responses to insecurity and violence throughout Sierra Leone. The largest and most powerful of these groups, the Kamajors, were responsible for the majority of the most serious abuses committed by those fighting on behalf of the Kabbah government since February 1998. In recent months, Kamajors have also been responsible for obstructing humanitarian assistance and demanding money or compensation at roadblocks.

Humanitarian and United Nations organizations complain that Kamajors frequently obstruct the delivery of aid to IDPs and civilian groups in need. Humanitarian agency vehicles were frequently commandeered by Kamajors, and aid workers were occasionally detained by Kamajors, two as recently as June 1998.<sup>43</sup> Groups providing assistance to the interior of Sierra Leone reported in June that the Kamajors had become increasingly demanding at checkpoints, often insisting that they be compensated for having "liberated" the country from the AFRC/RUF.

**Killings and Mutilation**

The scale and nature of abuses committed by Kamajors and other members of CDFs differ significantly from atrocities carried out by the AFRC/RUF, but the abuses are often no less horrific. Many witnesses of abuses committed by Kamajors spoke of the grotesque nature of killings, at times including disembowelment followed by consumption of vital organs, such as the heart. Acts such as these were intended to transfer the strength of the enemy to those involved in the consumption. Killings by Kamajors usually targeted people they believed to be members of the AFRC/RUF and their civilian supporters.

A Sierra Leonean Catholic priest described how the Kamajors reacted to the presence of the AFRC/RUF in Koidu in early February, just following ECOMOG's takeover of Freetown:

On February 7th, they [the AFRC/RUF] started "Operation Pay Yourself." On Friday the 13th, I went back to the mission. The youths had called the Kamajors who started arriving on the 11th, 12th, a day or two after "Operation Pay Yourself" had ended. They came from Sewafe, Punduru, Gondama... When they found AFRC, they would kill them immediately. The Kamajors and youths started burning [AFRC/RUF] soldiers and collaborators. On about February 11th, they [Kamajors] called a meeting at the town council. They said it was to restore law and order—they said if anyone knows where they are, they should tell us. They decapitated one surrendered soldier and I saw them eat his raw liver and heart.<sup>44</sup>

Another witness from Koidu remembered:

After the first night of "Operation Pay Yourself," the youths and the Lebanese businessmen called the Kamajors. The Kamajors came, and if they and the youths caught soldiers, they burned them alive with tires and petrol.<sup>45</sup>

<sup>43</sup>Human Rights Watch interview with humanitarian agency whose staff had been detained by Kamajors to "make a point," Freetown, Sierra Leone, June 23, 1998.

<sup>44</sup>Human Rights Watch interview, Guéckedou, Republic of Guinea, June 9, 1998.

<sup>45</sup>Human Rights Watch interview, Fandouyema II Refugee Camp, Guéckedou, Republic of Guinea, June 12, 1998.

Several foreign residents of Sierra Leone that had worked with or observed Kamajors in the field concurred that this "take no prisoners" policy was widespread. One foreign trainer of the Kamajors claimed that the fighters were as "malicious as the AFRC/RUF"<sup>46</sup> but committed fewer abuses due to their supervision, even though this was limited. The Kamajors have been led by Capt. Samuel Hinga Norman, deputy defense minister, who in recent months repeatedly stated that all CDFs were now under the control of ECOMOG.<sup>47</sup> With their knowledge of the local terrain, Kamajors are frequently relied upon by ECOMOG as combatants and guides in unfamiliar rural areas.

**Recruitment of Child Soldiers**

CDFs, especially the Kamajors, have contributed to one of the most urgent human rights problems involving children in Sierra Leone: the recruitment of child soldiers. Children have been recruited by the CDFs for many of the same reasons that the AFRC/RUF abduct them into their ranks: children are often easily indoctrinated, fearless, have little sense of what is morally right or wrong, and, according to Kamajor leaders, are more likely to be "unadulterated."<sup>48</sup> While no one knows the number of children fighting among the CDF forces, one field commander estimated that their forces in the eastern Kailahun district alone numbered 3,000.<sup>49</sup>

The situation for child combatants provoked a mission to Sierra Leone from Special Representative of the Secretary-General for Children in Armed Conflict Olara Otunnu. Otunnu urged that, "the international community make Sierra Leone a pilot project for a more concerted and effective response to the needs of children effected by war."<sup>50</sup> During his visit, Otunnu obtained commitments from the government to assure that the CDFs would cease recruitment of children under the age of eighteen, begin demobilization of child soldiers, provide special protection to child combatants, and create a Joint Task Force comprising representatives from the government, ECOMOG, U.N. agencies, and relevant NGOs. On June 25, in an interview with Human Rights Watch, the Deputy Minister of Defense, Hinga Norman, also declared that the government was committed to demobilizing CDF child combatants.<sup>51</sup> In mid-July, however, aid agencies and press reports concurred that the CDFs were still recruiting children in northern Sierra Leone.<sup>52</sup>

National and international human rights and humanitarian workers in Sierra Leone expressed their concern to Human Rights Watch that Civilian Defense Forces, such as the Kamajors and loosely organized bands of youths, represent a serious and growing human rights issue in Sierra Leone today. Like the AFRC/RUF, these groups are able to act largely with impunity. This trend, when considered in the context of past practices of armed groups in Sierra Leone, underscores the need to develop a comprehensive program to disarm, demobilize and reintegrate all combatants into the new national army or Sierra Leonean society.

Many former combatants, mostly from the AFRC/RUF, are presently being retained by the CDFs and integrated into the new national army. This training should be carried out by qualified ECOMOG personnel and

<sup>46</sup> Human Rights Watch interview, Freetown, Sierra Leone, June 25, 1998.

<sup>47</sup> Human Rights Watch interview with deputy defense minister, June 25, 1998.

<sup>48</sup> According to Kamajor rules of conduct, combatants must refrain from drugs, sex, looting, and other illicit acts in order to maintain their magical powers, including being bulletproof, on the battlefield.

<sup>49</sup> Lansana Fofana, "Militia Admits Recruiting Child Soldiers," IPS, Freetown, Sierra Leone, June 29, 1998.

<sup>50</sup> Press release, "Mr. Olara A. Otunnu, Special Representative of the Secretary-General for Children in Armed Conflict urges the international community make Sierra Leone a pilot project for a more concerted and effective response to the needs of children effected by war," New York, New York, June 2, 1998.

<sup>51</sup> Human Rights Watch interview with Deputy Minister of Defense, Freetown, Sierra Leone, June 25, 1998.

<sup>52</sup> Ibid. and phone conversations with aid agencies in Sierra Leone, July 27, 1998.

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monitored by UNOMSIL observers. Diplomats and aid workers in Sierra Leone have noted the lack of support for the approximately 3,000 ex-combatants in an encampment in dire conditions in the Lungi area outside of Freetown. Former combatants wishing to be reintegrated into the new national army will need appropriate support in order to complete their retraining. Those who are screened out as possible war criminals should be investigated and prosecuted where appropriate according to international standards. Those who wish to return to civilian life will require appropriate assistance to reintegrate into communities, including programs to encourage a return to farms, schools, or micro-economic activities. The reintegration aspects of the Disarmament, Demobilization and Reintegration (DDR) program must emphasize a respect for the laws of war and human rights. As combatants from rebel groups, CDFs and government forces have comprised the principal perpetrators of human rights abuses in Sierra Leone, the success of this program could play a crucial role in preventing future human rights abuses.

#### IV. SIERRA LEONEAN REFUGEES

The atrocities and violence described above are unfortunately only the first chapter of hardship for many Sierra Leoneans. Approximately one-quarter million Sierra Leoneans have fled to neighboring Guinea and Liberia in order to escape the abuses and fighting. The continuing conflict in Sierra Leone prevents them from leaving the refugee camps in these countries.

##### The Situation of Sierra Leonean Refugees in the Republic of Guinea

Since February 1998, the refugee situation in the Republic of Guinea has reached a state of emergency. As the AFRC/RUF attacked and committed atrocities in villages and towns in Sierra Leone's Kono and Kailahun districts, civilians fled by the thousands and crossed the border into Guinea. UNHCR puts the total number of new arrivals since May 1997 at over 200,000.<sup>53</sup> The new Sierra Leonean refugees have joined thousands who had fled fighting at earlier points in Sierra Leone's seven-year internal armed conflict.

Refugees poured out of Sierra Leone, sometimes at the rate of 3,000 per day, primarily into Faranah, Guéckedou, Kissidougou, and Macenta prefectures, in the forest area of eastern Guinea known as Guinée Forestière. The largest number of this population are settled in approximately 124 camps, or local settlements,<sup>54</sup> in Guéckedou, where refugees now outnumber Guinea nationals.<sup>55</sup>

<sup>53</sup>According to UNHCR, there are approximately 255,000 new Sierra Leonean refugees in Guinea and Liberia, over 185,000 of whom arrived in Guinea since August 1997. They joined 121,000 Sierra Leoneans already in Guinea as of June 1997. An additional 128,000 Liberian refugees are also in Guinea.

<sup>54</sup>Many of the refugees spontaneously settled in Guinea in areas abandoned by refugees from previous years and in new areas. Other refugee sites were planned by UNHCR, creating more traditional camp settings for larger numbers of people. Regardless of size, shape or history of formation, in the field the settlements are referred to by UNHCR, aid agencies, Guinean authorities and refugees alike as "camps." For the purposes of this report, the term camps will therefore be used to describe all refugee settlements. All of the camps are named after the local villages they are attached to, or are near to. In many cases, the camps are much larger than their namesakes. None of the camps are enclosed or are guarded by the Guinean military, although the border region of Guéckedou has been increasingly militarized with the increase in conflict across the border. Many military checkpoints have been established along the roads in the area. If security issues arise within the camp, they are currently dealt with by refugee camp committee authorities, who may consult with UNHCR and may refer issues to the Guinean police.

<sup>55</sup>Sierra Leonean refugees and members of the local Guinean population do mix. Although the refugees' movement is restricted, trading does occur and the refugees sell their labor, food obtained from UNHCR, wood, kerosene and other items to nationals. They also trade their rations for a variety of other items, such as salt or rice. This interaction is made easier by similarities in the tribal languages and heritage of the groups, and many share family relationships.



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57. Mazurana, Dyan and Dhrisopher Carlson, "From Combat to Community:  
Women and Girls of Sierra Leone" January 2004

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Rebel forces led by Foday Sankoh, calling themselves the Revolutionary United Front (RUF) and backed by Liberia, launched their first attack into Sierra Leone just prior to the elections, thwarting the president's efforts to stabilize the economy. Initially, RUF forces consisted of three groups: those trained in Libya with fighting experience in Liberia, young men from Liberia and Sierra Leone who had little or no work, and seasoned NPFL fighters from Taylor's army.<sup>24</sup>

As government revenues fell from the loss of mineral sales, so too did the salaries and the resolve of the SLA. Soldiers committed gross human rights violations, including rape, mutilations, looting, property destruction, and murder. They forced women and girls to exchange sex for "protection" and used them as prostitutes.<sup>25</sup> With the rebellion spreading virtually unchecked in the south and east, rebels preyed on civilians for food, supplies, and labor.<sup>30</sup>

**Violent Conflict and the Rise of the Civil Defense Forces**

In March 1991, RUF rebels invaded Sierra Leone from Liberia and occupied the eastern regions of the country, securing lucrative diamond reserves. In exchange for weapons, drugs, and supplies, Sierra Leonean diamonds were smuggled into Liberia for sale on the international market, generating millions of dollars annually. Controlling the diamond mines also allowed Sankoh to recruit, forcibly and voluntarily, young miners and locally unemployed men and boys into his fighting forces. By the mid to late 1990s, global exposure of these "blood diamonds" led to an international outcry against their export and sale and initiated numerous UN investigations and resolutions.<sup>25</sup>

Subjected to violence by both the RUF and the SLA, local militias known as Civil Defense Forces (CDF) emerged.<sup>27</sup> CDF gained prominence with the rise of the Kamajors, the largest traditional hunting society, in the eastern and southern provinces. Other hunting groups were the Tamaboro, Donso, Kapra and later, the Gbethis in the north. With the exception of the Gbethis, these groups existed prior to the war, relying on perceived magical powers and customary hunting weapons such as spears. Combining skill and valor, these groups at times thwarted RUF offensives.<sup>32</sup>

As the war progressed and the RUF gained ground, the government supplied the CDF with weapons and financial and logistical support. Although under the supervision of Samuel Hinga Norman, who was the deputy defense minister, chairman of the CDF, and a Kamajor, the CDF did not feature prominently in the president's overall war strategy. This was a result of the army's unease at what it perceived as competition from other fighting forces and possibly due to fear of the CDF gaining political leverage over the president's hold on authority.<sup>33</sup>

Within the first 18 months of RUF attacks, over 400,000 people were internally displaced while hundreds of thousands became refugees. The war quickly came to involve not only Liberia, but also Guinea and Côte D'Ivoire. It destroyed hundreds of hospitals and schools and tens of thousands of homes. Because of a lack of health care, failing schools, and the widespread destruction of infrastructure support systems, the population grew increasingly vulnerable. The Sierra Leone countryside became militarized as a result of the presence of international forces, widespread proliferation of small arms, and a general suspicion towards one's neighbor, especially in areas protected by local militias.<sup>32</sup>

In 1995, the government hired Executive Outcomes (EO), a South African "mercenary" force composed of 2,000 former South African Defense Force combat veterans. The intervention of EO along with the CDF propped-up the failing Sierra Leonean government. EO's rapid deployment and well-trained soldiers attacked RUF forces and regained control of resource-rich areas. Its military victories allowed local traders to re-establish trade networks and, more importantly, enabled a corporate web of allied mining partners to fence off valuable mining zones, squeezing everyday miners into smaller low-paying illicit operations.<sup>34</sup> With the assistance of local landowners or policemen, these traders kept wages low, forced slave-like labor, and traded diamonds on the informal market.<sup>35</sup> Those who did not cooperate were removed from political positions and trading zones.<sup>36</sup>

Women and girls reported atrocities committed by all fighting forces during the war.<sup>27</sup> Early in the conflict the RUF perpetrated widespread violence across southern and eastern Sierra Leone. Violence against women and children and general terror in rural and urban centers quickly became cornerstones of the movement and were encouraged by RUF leadership.<sup>28</sup>

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**Women and Girls in Fighting Forces**

The presence of women and girls within the former rebel RUF and AFRC fighting forces was known early on in the war.<sup>37</sup> Much less is known about their presence or roles in the SLA or the CDF. Drawing on field-based data and secondary sources, this study concludes that the estimated number of girls and young women in fighting forces was higher than previously reported (see Table 1).<sup>38</sup> This increase is partly due to their presence as fully initiated members of the CDF.<sup>39</sup>

**Table 1: Estimated Number for Total Forces, Child Soldiers, and Girl Soldiers**

Force	Total	Child Soldiers	Girl Soldiers
RUF	45,000	22,500	7,500
AFRC	10,000	5,000	1,667
SLA	14,000	3,500	1,167
CDF	68,865	17,216	1,722
<b>Total</b>	<b>137,865</b>	<b>48,216</b>	<b>12,056</b>

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Of the study population, nearly all stated "abduction" and "forced recruitment" as their means of entry into the various forces. Ten-year-old Maria B.<sup>40</sup> was outside her home playing with friends under the moonlight when the RUF attacked.<sup>41</sup> All of them tried to escape, but she was captured. She was told to carry looted items for the rebels and was given a five-gallon container of palm oil; anytime she tried to rest she was beaten.

Agnes V.<sup>42</sup> was nine years old and on vacation with her family when rebels attacked the village. After looting the village, the rebels rounded up around 50 people, locked them in a building, and began to set it on fire. A junior commander pleaded with the senior commander to release the young girl. She was then selected by the junior commander to be his captive "wife." The people remaining in the building were burned. Agnes was forced to be the captive "wife" of the commander for the next nine years. During the commanders' absences from the camp, she was in charge of the military compound, including organizing raids and fighting units.

Mariama M.<sup>43</sup> was seven years old when she was captured and spent 10 years with the AFRC/RUF as a fighter. She received basic military and weapons training with machine guns and two-grip pistols. She was trained with approximately 50 other girls and 100 boys.

Once recruited, women and girls had numerous roles, including that of frontline fighters. In fact, nearly half (44 percent) of the study population received basic military and weapons training from their commanders or captor "husbands." However, nearly all women and girls performed additional roles:

- 72 percent as cooks;
- 68 percent as porters;
- 62 percent as assistants for the sick and wounded;
- 60 percent as "wives;"
- 44 percent as food producers;
- 40 percent as messengers between rebel camps;
- 22 percent as spies;
- 18 percent as communications technicians; and
- 14 percent as workers in diamond mines for their commanders or captor husbands.

Notably, all of the study population who reported their primary role as "fighter" also reported that they were forced to be captive "wives." According to Kama F.,<sup>44</sup> who at age 15 was an RUF frontline fighter, it was better to be a fighter and the "wife" of a common soldier because you could protect yourself with your own weapon, you had access to food and loot, and your chances of escaping were greater, unlike captive "wives" of commanders who were closely guarded with little chance of escape.

**Women and Girls as Full Members of the CDF**

Official claims that the pro-government CDF were composed only of males are inaccurate.<sup>45</sup> Women and girls were fully initiated members of the CDF.<sup>46</sup> This study focuses on the two largest CDF: the Kamajors and Gbethis. Although the Kamajors were originally a male-only traditional hunting society, in response to the increased pressure from the RUF it became a

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self-defense force and enlisted women and girls beginning in the early 1990s and continued this practice throughout the war. The Gbethis, never a traditional male society, were created as one of the CDF in the mid 1990s in response to increased rebel attacks. They enlisted and initiated women and girls where they acted as integrated members of the CDF and were included in all ceremonies, amulets, and scarification. They served as commanders, frontline fighters, initiators, spiritual leaders, medics, herbalists, spies, and cooks.<sup>47</sup>

Ramatu T.<sup>48</sup> was a fighter with the Kamajors and fought alongside other girls and women Kamajors in Kenema and Bo Districts. Describing her initiation she says,

*They use native herbs, which you drink and they bathe you in. These herbs make it so you don't feel like returning to your family. The initiator placed charms around my neck so that bullets are deflected, and a special charm to protect against knives and pangas: they will just bounce off my body. After this they gave me my special dress and herbs and charms. I was instructed not to bathe for several days because it would reduce the magic. Later, they rubbed the blood of a human being on my skin, and I found that I was not afraid of anything. I had a strong and fearless heart.*

Some women and girls joined the Kamajors and Gbethis at the request of their husbands who were already initiated in the militias. Mamuna K.<sup>49</sup> was married to a Gbethi man who asked her to join for her own protection. Mamuna, who was pregnant, sent her remaining children into Freetown for their safety and joined the Gbethis the same year. Importantly, Mamuna was an herbalist and her role within the Gbethis was to prepare the baths and drinks for those undergoing initiation. Within the group she was regarded as crucial to maintaining the magical powers of the fighting force, as she collected and prepared herbs for the fighters' food and drink.

Others were abducted and conscripted by the Kamajors and Gbethis. At times, women and girls worked with their male counterparts to capture civilian adolescents and children whom they forcibly initiated and trained as fighters.<sup>50</sup> Some "joined" or became "wives" to male CDF fighters as a matter of survival. Mariatu R.<sup>51</sup> agreed to become a "wife" of a

fighter and join the Gbethis when an RUF attack on her village left her and her elderly parents as the only survivors. Upon joining, Mariatu was able to bring her parents and herself within the ring of protection offered by the Gbethis.

Many adolescents and children "joined" the Kamajors and Gbethis with the approval of their parents. This was especially the case when the Paramount Chief of the area endorsed a particular unit of the CDF; it then became mandatory that all families contribute a member to the CDF.<sup>52</sup> Dissension was rare. For example, in Kenema Township, Kenema District, where the Kamajors were especially active during the war, the burned homes are not the result of rebel activities. Instead, they belong to families who did not contribute a family member to the Kamajors, and thus were suspected rebel sympathizers. According to one informant, "There is not a house in Kenema [Township] left that did not contribute someone to the Kamajors."<sup>53</sup>

Women and girls in the Kamajors and Gbethis observed widespread human rights violations by members of the CDF, including cannibalism, human sacrifice, and sexual abuse. For example, Ramatu T.<sup>54</sup> reported that a common practice among her Kamajor force was for adult Kamajor males to enter a village and capture an adult civilian. They would then cut the person's throat, turn them upside down, and "squeeze them from toe to head" to drain their blood into a bucket. All members of the fighting party, including the women and girls, would then drink the blood so they would not be afraid during the attack. Perhaps in part because of their participation in such violent acts, as well as their involvement in activities such as warfare, that went against traditionally acceptable roles for females, all young women and girls formerly with the CDF in the study population reported stigmatization, threats, and abuse upon returning to the communities they had fought to protect.

**"Wives" of RUF Commanders in Camps and Command Structure**

The RUF was loosely configured, and camp and command structure varied throughout the country. In general, a commander held "houses" or compounds in which his or her recruits and captives served. While there were a number of female RUF commanders, the majority were males.<sup>55</sup>

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### Western Area

An increase in search and cordon operations by UNAMSIL and the Police within Freetown, and the movement of CDF out of the Brookfields Hotel, has seen positive results in reducing crime in the city.

### Eastern Province

Daru continues to see the disarming of a small number of RUF fighters, but the agreement between the RUF and CDF, to allow commercial trucks to use the road from Kenema to Daru, seems to have fallen through, with the report of six vehicles captured by the RUF at Segbwema on Saturday 6 August. Save the Children Fund (SCF) reported that the vehicles (3 trucks and 3 taxis) were traveling from Kenema to Daru and Daru to Kenema respectively, when they were seized and taken to an unidentified RUF base. One of the vehicles is said to be a large commercial truck carrying rice and palm oil. With the exception of one passenger who escaped, the whereabouts of the people on the vehicles were still unknown at the time of writing.

### Southern Province

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The region was generally calm. However, aid agencies continue to express serious concerns about a number of security incidents involving Kamajors, which are hindering smooth delivery of humanitarian assistance in the region. The authorities are currently investigating a number of cases reportedly linked to the Kamajors, including the death of an MSF-B national officer; the looting of ACF/WFP food in Moyamba district and the commandeering of relief vehicles belonging to the Lutheran World Federation in Sorogbema, Pujehun district.

The recent decision of CDF authorities to organize a workshop in Freetown, with the participation of all its members, is viewed by the humanitarian community as a welcome and timely initiative. Humanitarian organizations urge the CDF to discuss as a matter of priority, strategies to end the continuing harassment and intimidation of aid workers and the civilian population at large by its members.

### Military Expansion

UNAMSIL troop strength in the country now stands at 12,500, recently boosted by the arrival of a Russian aviation unit with four Helicopter Gun Ships. The SLAs have also expanded, with 1000 troops now undertaking continuation training after passing out of the Benguema Training Camp. A new group of recruits are now undergoing training.

## B. POLITICAL DEVELOPMENTS

### UN Security Council extends UNAMSIL mandate

On Friday, 4 August, the UN Security Council unanimously adopted a British-sponsored resolution to extend UNAMSIL's mandate until 8 September 2000 and to strengthen its capacity. The original six-month mandate was due to expire on Monday 7 August. The resolution said UNAMSIL's military component "should be reinforced

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Meanwhile, WFP has offered to extend its school feeding programme to UNICEF-supported formal schools and non-formal centres.

### Food Aid

During the reporting period, WFP distributed a total of 445.879mt of assorted food-aid commodities to 39,447 beneficiaries countrywide.

### Health

According to a health information bulletin recently published by the MOHS, health facilities operational in the Western Area and northern province have declined from 356 institutions in 1997, to 154 to date; (Western Area-76; northern province- 78). Meanwhile, UNICEF, WHO and UNFPA continue to undertake activities to strengthen the MOHS capacity to respond to health challenges in different regions.

UNICEF recently supplied 1,800 EPI manuals for the training of PHU staff in accessible districts. They also launched a community-based Anemia & Prevention Control Project in Bo, aimed at targeting 12,000 pregnant and breast-feeding women. They continue with chlorination, water trucking, and cesspit emptying activities in IDP camps and in accessible areas. In collaboration with local contractors, UNICEF is constructing wells in Moyamba, Port Loko, Tonkolili and Kenema districts to service schools, PHUs and vulnerable communities.

## F. HUMAN RIGHTS

Human Rights Watch (HRW) reports continuing violations committed against civilians by armed groups. According to a report sent to OCHA on 6 August, "of particular concern is the plight of civilians attempting to flee RUF areas to escape attacks, forced recruitment, and GOSL gunship attacks." HRW said it has collected testimonies of civilians who were tortured by the RUF or killed for attempting to flee (Makeni, Lunsar, Kambia). Given the massive displacement of populations within RUF areas, the organization said it has reason to believe that the RUF is trying to terrorize the remaining civilian population in their areas of control to prevent them from leaving. "We've also documented many cases of civilians being severely maltreated by CDF members, particularly the Gbethis who routinely extort money from civilians and beat and torture those accused of being RUF combatants or collaborators," the report said.

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*Gunship Attacks:* Furthermore, testimonies of victims and witnesses from Tongo Field recounted serious civilian casualties resulting from gunship attacks near the market place. "While other RUF targets were also hit, and while there were reported to be RUF combatants in and around the crowded market place, the attack resulted in 14 civilian deaths and at least a dozen wounded," said the HRW report. HRW said it was yet to confirm which gunship was responsible for these attacks.

*Forced Recruitment:* HRW has recorded witness accounts of a recent RUF recruitment drive in Makeni and in Yeliboya, near Kambia. "We have credible evidence to suggest a small number of children as young as 10 were recruited in Makeni between July 11 and 15." There are (unconfirmed) similar reports from

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Kono.

*Food Raids:* The RUF continues to commit serious violations in raiding villages in Makeni, Lunsar, Kambia and Kabala for food. HRW said it has documented at least 15 murders and several rapes, which occurred during such raids (in June and July).

*Westside Boys:* HRW reported at least eight cases of abductions along the Freetown-Masiaka highway, including the four aid workers of the Christian Health Association of Sierra Leone (CHASL) who were abducted on 21 July and released a week later.

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*CDF:* There are continuing reports of extortion and lawlessness within the areas of Moyamba, Kenema and Bo. HRW has also documented several cases of excessive use of brutality against suspected RUF rebels by the CDF.

*For comments/questions/contributions please contact, Ahunna Eziakonwa, Humanitarian Affairs Officer, OCHA, Sierra Leone. Email: aeziaki@hotmail.com/Tel: 232-22-227759/23223-501302.*

For the Directory of Humanitarian Agencies/Partners in Sierra Leone, [please click here](#) (pdf format)

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- in all efforts by the international community to resolve the political and security crisis in Sierra Leone, the needs of children affected by the internal armed conflict, including child combatants, should be given the highest priority and concrete steps should be taken to implement commitments made to end the recruitment and use of child combatants in Sierra Leone;
- those responsible for grave breaches of international human rights law and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice.

**The use of child combatants in the internal armed conflict**

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Children have fought with the various forces involved in Sierra Leone's internal armed conflict which began in 1991. These forces include the RUF, the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army and the Civil Defence Forces (CDF). The AFRC came to power following the military coup on 25 May 1997 which overthrew the government of President Ahmad Tejan Kabbah elected in 1996. The AFRC joined forces with the RUF after coming to power and remained its ally after the AFRC was forced from power in February 1998 by forces deployed in Sierra Leone by the Economic Community of West African States (ECOWAS), known as ECOMOG. With the signing of the peace agreement in July 1999, the AFRC allied itself to the government of President Kabbah but some of its forces continued to engage in hostilities against government-allied forces. Rebel forces who remain in control of parts of the north and east of the country continue to forcibly recruit and use child soldiers. Previously disarmed and demobilized members of the AFRC and those members of the Sierra Leone Army who had remained loyal to the government, including children under the age of 18, have again been recruited and rearmed to fight on behalf of the government since May 2000. Large numbers of children have also been recruited and used in combat by the CDF, the civilian militia based on societies of traditional hunters, such as the *kamajors*, which support the government of President Kabbah.

The involvement of children in conflict has devastating effects on their physical and mental integrity. There have been higher casualty rates among children because of their inexperience, fearlessness and lack of training. Children are considered as particularly useful because their size and agility means that they may be sent on particularly hazardous assignments. Frequently ill-treated or even killed by the commanders, they have no protectors. Adult combatants who commit human rights abuses, including crimes against humanity and war crimes, involve children in those crimes. In addition to the obvious risks

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*I was afraid of fighting but I was given 'blue boats'. After that I felt like I could do anything. I never refused to take drugs."*

John recalled that children were punished if they refused to obey orders: *"I was punished after I was asked to be part of an advance team to attack Koinadugu. I was not feeling well; I was feeling sick and had a stomach ache. I said that I could not go and fight. The commander ordered other small boys to beat me. After I was beaten a doctor who had been captured helped me."*

Isatu, a girl now aged 17, was abducted by AFRC forces from Fadugu, Koinadugu District, in 1998. She told Amnesty International on 24 July 2000 at a centre for former child combatants: *"I did not want to go; I was forced to go. They killed a lot of women who refused to go with them."* She was forced to become the sexual partner of the combatant who captured her and is now the mother of their three-month-old baby: *"When they capture young girls, you belong to the soldier who captured you. I was 'married' to him."*

Isatu was trained in a base near Kabala to use weapons, including a bayonet, gun and knife, and fought in the area around Fadugu and Makeni. She admitted that she had cut off the hands of children and adults, and set fire to houses with civilians locked inside. *"There is a law of the AFRC that forces you to kill; if you refuse to, you yourself are killed."*

**Former child combatants fighting with the CDF**

Child combatants recruited by the CDF have also recounted their experiences. The parents of 12-year-old Brima, now at the centre for former child combatants at Waterloo, gave permission to the CDF to use him as a child combatant in 1998. He continued to live at his home but was active with the CDF in areas around Masiaka, Port Loko and Yele. He was trained to fight by CDF "initiators", those who admit members into the societies of traditional hunters. Brima told Amnesty International on 20 June 2000 that when children disobeyed orders they were beaten unless their parents paid a fine. Brima recalled: *"I was beaten because I became separated from a CDF patrol."*

Brima recounted that when a rebel is caught, his arms are tied up behind his back. The captive is then interrogated and stabbed to death. *"I saw four executions."*

Mohamed, also aged 12, from Port Loko, Port Loko District, Northern Province, was recruited by the CDF in 1998. His parents were not informed about the recruitment but they did nothing to prevent it because of the status attached to membership of the society of traditional hunters, such as the *kamajors*, described by Mohamed as *"the supremacy of the society"*. In addition to carrying water and machetes for the CDF, he escorted captured

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rebels to the Sierra Leone Army. He also described to Amnesty International on 20 June 2000 how the CDF executed rebels they had captured or those suspected of being rebels: *"I saw three captured rebels being killed; their heads were cut off. The children had to bring the heads to the SLA [Sierra Leone Army] headquarters to show that the CDF were effective."*

## Rehabilitating child combatants

Until the resumption of hostilities in May 2000 UNAMSIL, including its human rights section, played an important role in negotiating the release of children held by rebel forces and providing logistical support and military escorts to ensure their safe transfer to interim care centres. It worked with a number of non-governmental organizations, both national and international, who have been active in trying to secure the release of children and to provide the assistance they need. In March 2000 UNICEF and non-governmental organizations were supporting more than 700 children in interim care centres; about 80 per cent of these were demobilized child combatants.

Following the July 1999 peace agreement and before the resumption of hostilities in May 2000, specific procedures had been adopted for child combatants. When children presented themselves to a disarmament, demobilization and reintegration reception centre - sometimes simply a table in the middle of the road - those who were not combatants were handed over to child protection agencies and taken to an interim care centre. If, after questioning, it was established that they were combatants, they were transferred to the children's sections of disarmament, demobilization and reintegration camps. For those who had fought with the RUF, the AFRC or the former Sierra Leone Army this program lasted for five weeks; for those with the CDF a shorter program was provided because normally the children had not been separated from their families and communities.

At interim care centres former child combatants are provided with medical treatment, food and clothing, psycho-social rehabilitation, education and recreation. Some of the older children, especially those who had spent months or years with rebel forces, have bullet wounds or other injuries. Malnutrition, respiratory and skin infections and other ailments are common, as are sexually transmitted diseases, including HIV/AIDS. Some still suffer the effects of narcotic drugs.

When Amnesty International met former child combatants at the centre for former child combatants at Waterloo on 25 March 2000, a boy aged 14 who had been abducted by AFRC forces in 1998 said: *"I want to go to school and learn so that I can forget the old*

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The governments of both Liberia and Burkina Faso vigorously denied these allegations and called on the international community to conduct independent investigations in their countries in order to substantiate these claims.

The UN Security Council sanctions committee on Sierra Leone established a panel of five experts to continue to investigate the link between the diamond trade and the conflict in Sierra Leone, including the alleged implication of the governments of Liberia and Burkina Faso. The panel of experts is expected to report on its findings by the end of October 2000.

In Resolution 1314 (2000) on children and armed conflict, the UN Security Council expressed its grave concern at: *"the linkages between the illicit trade in natural resources and armed conflict, as well as the linkages between illicit trafficking in small arms and light weapons and armed conflict, which can prolong armed conflict and intensify its impact on children, and, in this regard, expresses its intention to consider taking appropriate steps, in accordance with the Charter of the United Nations."*

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**Military assistance to government forces**

Since May 2000 combatants below the age of 18 have continued to be recruited by the Sierra Leone Army and other government-allied forces, including the AFRC and the CDF.

While recognizing the responsibility of the Sierra Leone government to maintain security and protect its population and territory, Amnesty International opposes the provision of assistance to armed forces where it can be reasonably assumed to contribute to the recruitment of children under the age of 18 by the armed forces or other armed groups and their participation in hostilities. Effective mechanisms need to be put in place to monitor the distribution and use of arms and ammunition provided by other countries to the Sierra Leone Army and other forces fighting on behalf of the Sierra Leone government in order to ensure that they do not reach combatants under the age of 18. Continuing military assistance to government forces should be conditional on guarantees being provided that such assistance does not facilitate the recruitment and use of child combatants, or contribute to other human rights violations. If evidence is found that military assistance from other countries facilitates the recruitment and use of child combatants, the international community has a responsibility to ensure that such assistance is suspended.

The UK government has provided substantial assistance to the government of Sierra Leone for training and equipping the new Sierra Leone Army. As a condition for proceeding with training and equipping the Sierra Leone Army, the UK government sought and obtained assurances from President Kabbah in March 1999 that children under the age

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### Human Rights Developments

In early February, troops of the Economic Community of West African States Cease-Fire Monitoring Group (ECOMOG) ousted the government of the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) from Freetown. This ended their nine-month rule, characterized by widespread human rights abuses and a complete breakdown of the rule of law. For the past seven years a vicious civil war has engulfed Sierra Leone, characterized by atrocities against civilians, often committed by the RUF, a rebel group formed in 1991 with support from the National Patriotic Front of Liberia (NPFL).

Upon taking power on May 25, 1997, the AFRC suspended the constitution, banned political parties and public meetings, and announced rule by military decree. The ARFC, created by a group of senior military officers, soon joined forces with the RUF. During their joint rule, many judges, lawyers, and police fled the country, causing a total collapse of the judicial system. The AFRC/RUF government arbitrarily arrested and detained its suspected opponents and critics, including students, journalists and human rights advocates, causing thousands to seek asylum.

On March 10, the Nigerian-led ECOMOG reinstated President Tejan Kabbah, first elected in March of 1996, who subsequently declared a state of emergency. After losing political power, the AFRC/RUF alliance engaged in a war of terror against civilians, committing widespread and egregious atrocities in an attempt to regain power. Between February and June 1998 alone, its members raped, deliberately mutilated, or killed outright thousands of Sierra Leonean civilians. The AFRC/RUF abducted men, women and children, probably numbering in the thousands, for use as combatants, forced laborers, or sexual slaves. Women were actively targeted through sexual violence, including rape and sexual slavery. In addition to various forms of physical abuse, innumerable civilians suffered psychological trauma from the rebels' choice of tactics and extreme cruelty—like the severing of limbs—to compound the horror of their attacks.

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Civilian Defense Forces (CDFs), civilian militias who supported the Kabbah government, also committed numerous abuses, including indiscriminate killings and torture, but on a significantly smaller scale than those carried out by the AFRC/RUF. The CDFs were created in order to provide local security and targeted for abuse those they claimed

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were AFRC/RUF combatants or their supporters. The largest and most powerful of the CDFs, the Kamajors, were responsible for the majority of abuses committed by those fighting on behalf of the Kabbah government. In addition to killings and torture, Kamajors also obstructed humanitarian assistance and extorted money or other payment at roadblocks.

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Children were victims of gross violations of human rights committed by both sides to the conflict. The AFRC/RUF abducted an unknown number of children—probably in the thousands—for use as laborers, fighters, and in the case of girls, sexual prisoners. Many girls were forced to work for the AFRC/RUF combatants until they reached sexual maturity, when they would be assigned to a fighter as a “wife.” There were also many child soldiers among the Kamajors, and despite promises by the government to demobilize all combatants under the age of eighteen, the CDFs continued to recruit children at least until July.

The United Nations estimated that over 416,000 Sierra Leoneans fled the fighting as refugees to neighboring Guinea and Liberia or to internally displaced camps. Conditions for both internally displaced persons (IDPs) and refugees were often severe due to a lack of access to camps and poor security conditions. In particular, the close proximity of the camps in Guinea and Liberia to the Sierra Leonean border and the presence of former combatants among the refugee population in Liberia jeopardized humanitarian assistance and protection. Many refugees and IDPs suffered from a host of problems including high levels of malnutrition and disease, as well as occasional attacks from the RUF/AFRC.

The government made repeated gestures in support of human rights, such as its pledge to provide amnesty for child soldiers and intermittent appeals to combatants to lay down their arms in exchange for amnesty. In a climate of public hatred for individuals associated with the AFRC/RUF, the Kabbah government initiated legal proceedings against fifty-eight civilians in regular courts and thirty-eight former soldiers before a military court on a range of charges including treason and murder. In hearings in August and October, the High Court of Sierra Leone sentenced to death twenty-seven civilians convicted of treason, including five journalists and a seventy-five-year-old woman. International observers questioned the appropriateness of the treason charges for the journalists, and criticized the lack of a right to appeal sentencing by the military court. On October 19, the government of Sierra Leone executed by firing squad twenty-four of the soldiers who had been sentenced to death one week earlier. The trials constituted the first major test under the Kabbah government of a justice system which lacked basic infrastructure and support. Many of the over 2,000 prisoners in Sierra Leone were held under the 1998 Public Emergency Regulations, introduced by President Kabbah on March 16 and ratified by parliament, which provided for indefinite detention without trial. Prisons were often overcrowded, unsanitary, and lacking in health care and the regular provision of food.

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## CHILDREN-SIERRA LEONE: Militia Admits Recruiting Child Soldiers

By Lansana Fofana

**FREETOWN, Jun 29 (IPS) - Sierra Leone's pro-government militia, popularly known as the Kamajor, has admitted to recruiting thousands of children into its ranks to fight the remnants of the ousted military junta.**

"In Kailahun district (east of Sierra Leone) alone, we have 3,000 child Kamajors," said Kamajor field commander, Patrick Zangalaywah. "These kids are very brave on the frontline."

Zangalaywah said children are unadulterated and that they keep the laws governing the conduct of the militia like abstinence from sex, drugs and looting when in combat.

"We don't trust adults quite much because many have breached the rules governing our militia group and so they get killed by the enemy," he explained in a recent interview.

Last month, the United Nations Secretary General's Special Representative for Children and Armed Conflict, Olara Otunnu, urged Sierra Leone's belligerents to stop recruiting child soldiers into their army and to demobilise those already serving in their fold.

"I saw children as young as 10 and 14, bearing arms and in battle-readiness. This is unfortunate," said Otunnu, after visiting Sierra Leone's eastern war zones.

Otunnu told IPS that the Kamajor Movement National Coordinator, Chief Sam Hinga Norman, had given him his word to demobilise the child Kamajors, whose exact number is not known.

Norman, Otunnu added, also had assured him that no new child Kamajors would be recruited and that a process to demobilise them would soon begin.

But until now, there has been no demobilisation of child Kamajors. IPS recently saw dozens of children being drafted into the militia group in the north of the country, where remnants of the ousted military junta are committing atrocities against civilian populations.

A top Kamajor commander, Monya Farmah, told IPS last week that the militia would rather do away with adult Kamajors. "The children know the battle terrain quite well and they can meander through the forests in pursuit of rebel bandits," he said.

This view has, however, been rejected by rights and child advocates groups. "This is a gross abuse of the children's rights," said Jonathan Freeman of the Freetown-based 'Save the Child', a new non-governmental organisation that advocates the rights of the child.

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"It is appalling and I think the government should move fast enough to demobilise the kids within the Kamajor group," he said.

"These children have killed, maimed and acted as adults. I believe they should be immediately demobilised and a process of trauma counselling be put in place for them," said Thomas Sandi of the Freetown-based Human Rights League.

[ Ironically, some of the child Kamajors interviewed by IPS said they would want to become soldiers in adult life, as well. "I am 14 and a rebel killer. I don't want to be demobilised, because the rebels know I kill them mercilessly," said Sandi who is based in Daru, a military garrison in the east of the country. ]

The problem of children involved in the conflict is becoming complex. Retreating junta troops have been abducting and conscripting dozens of children in the north-eastern provinces.

In a strongly-worded message, Otunnu appealed to the rebel forces to discharge all child combatants within their fold. "It is difficult to estimate the number of children in the rebel movement, as much as it is to reach the rebels and persuade them to demobilise children," he said.

The United Nations Children's Fund (Unicef), in collaboration with Sierra Leone's national radio and television, has launched a major campaign aimed at demobilising the children and rehabilitating them.

Discussion programmes are aired everyday and rights groups are eagerly waiting to see whether the Kamajors will take the lead by letting the children go.

The Kamajors took up arms in 1992, a year after the outbreak of Sierra Leone's civil war, to complement the efforts of the national army to fight the rebel Revolutionary United Front (RUF).

The RUF, headed by former army corporal Sankoh Foday, joined forces with the Armed Forces Revolutionary Council (AFRC) junta which was toppled in February. Remnants of the AFRC are still fighting to oust the elected government of President Ahmed Kabbah, who returned to power in March. (END/IPS/LF/MN/PM/98)

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- B. “The Fear is Still in Me”: Caring for Survivors of Torture (American Journal of Nursing), October 2004

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- C. Sierra Leone: Childhood – A Casualty of Conflict (Amnesty International), 31 August 2000
- D. The Scars of Death: Children Abducted by the Lord’s Resistance Army in Uganda (Human Rights Watch), September 1997 (*only part of this paper is included*)

#### **III. Impact on Amputees**

- E. Treatment of Neuropathic Pain in Sierra Leone (Doctors Without Borders), 1 July 2002
- F. No Compassion for Sierra Leone’s Amputees (Wordpress.org), 29 March 2007
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- H. A Tale of Three Amputees (allAfrica.com), 14 May 2002

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**A. Assessing Trauma in Sierra Leone (Doctors Without Borders), 11 January  
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## Special Report

### **Assessing Trauma in Sierra Leone**

Psychosocial Questionnaire: Freetown Survey Outcomes  
by Kaz de Jong, Maureen Mulham, and Saskia van der Kam  
January 11, 2000

This report is the product of close cooperation and hard work by a multinational team motivated to bear witness to the anguish suffered by the Sierra Leone population.

Warm thanks to MSF-Holland's medical coordinator in Freetown, Maureen Mulham, for skillfully guiding the survey process. Lo van Beers was instrumental during the data entry process. Special thanks go to the group of Sierra Leonian interviewers and their respondents for the difficult and often painful work of asking and answering the survey questions. For reasons of security, the names of the interviewers/interviewees cannot be given.

— Kaz de Jong, Mental Health Advisor, MSF-Holland (January 2000)

#### **I. Summary**

This report is based on a mental health survey of persons in Freetown, Sierra Leone in May 1999. Several months earlier the city saw fierce fighting that left more than 6000 people dead, an untold number injured and mutilated, and tens of thousands homeless. Many of those affected had gone through similar experiences before, and had fled to Freetown for its relative safety.

The findings only touch on the sufferings of the country's population. The civil war in Sierra Leone began in 1991 and no region has been spared. The residents of Freetown were not alone in their trauma: the country's town and village dwellers too, have often been repeated victims of war, displaced time and again from their homes and subjected to terrible and long-lasting hardships.

Although fighting in the country has largely ceased since the Lome Peace Accord of July 1999, the effects of that war will be with the population for a long time. As this survey makes clear, few escaped the mental trauma of the war zone that Freetown became for more than three weeks in January 1999.

Doctors Without Borders found, among other things, that 99% of those surveyed suffered some degree of starvation, 90% witnessed people being wounded or killed, and at least 50% lost someone close to them. The intensity of the fighting is indicated by the numbers: 65% endured shelling, 62% the burning of their property, and 73% the destruction of their homes. Physical harm was also great: 7% had been amputated (typically a limb, hand, foot or ear), 16% had been tortured by a warring faction, 33% had been held hostage, and 39% had been maltreated in some way or another.

The psychological impact of actually witnessing horrific events imposes a serious psychological stress. Deliberately or not, witnessing at least once events such as torture (54%), execution (41%), (attempted) amputations (32%), people being burnt in their houses (28%) and public rape (14%) often results in traumatic stress or even Post-Traumatic Stress Disorder (PTSD). Almost all respondents reported to have seen wounded people at least once (90%).

Doctors Without Borders also found, through a technique called the Impact of Event Scale, that the population showed very high levels of traumatic stress. Traumatic stress associated with physical complaints like headaches (38%) and body pains (12%) is reported most frequently.

The psychosocial and mental health consequences of war on civilians are all too often neglected. Even after hostilities cease, the war may continue in people's minds for years, decades, perhaps even generations. To address only the material restoration and physical needs of the population denies the shattered emotional worlds, ignores the broken basic assumptions of trust and benevolence of human beings, and leaves unaddressed the shattered moral and spiritual consequences of war.

After severe conflicts, people seek to forget or deny what happened to avoid painful memories of the past and to escape the sense of hopelessness, humiliation, and anger. But for the direct survivors of violence, acknowledgement of the suffering is a crucial element for making sense of and addressing traumatic experiences. To help a traumatized person there is a need to restore the bonds between the individual and their surrounding system of family, friends, community, and society. Overcoming the extreme stress and sometimes even severe mental health problems associated with mass traumatization such as occurred in Sierra Leone, tests the healing capacity of family and community.

## **II. Background**

### **1. Political Context**

In May 1997, military officers of the self-proclaimed Armed Forces Revolutionary Council (AFRC) overthrew the democratically elected government of President Ahmed Tejan Kabbah and formed a junta with the insurgent Revolutionary United Front (RUF). In February 1998, the West African peacekeeping force ECOMOG ousted the combined AFRC/RUF forces, whose remaining fighters fled to the countryside. President Kabbah was reinstated in office on March 10, 1998. In December 1998 the combined RUF/AFRC forces launched a massive offensive that brought the fighting into the capital, Freetown.

The fighting in Freetown in January 1999 was an intense, violent repetition of the brutality that has become common in Sierra Leone. The rebel forces committed indiscriminate attacks – thousands of executions, abductions, and rapes – on the civilian population. Arson and looting were widespread. ECOMOG forces were implicated in the summary execution of hundreds of suspected RUF fighters. Altogether, some 6000 people died in Freetown over a three-week period and some 150,000 were displaced from their homes. When the rebels were forced to retreat, they cruelly amputated arms and legs and ears of civilians in their custody.

On July 7, 1999 the various parties signed a Peace Accord in Lome. Since then, armed clashes have been sporadic, travel through most of the country is now possible, and Freetown is being rebuilt. But insecurity remains. The inadequately funded and ill-functioning Disarmament, Demobilisation, and Reintegration program has meant that too many armed soldiers and ex-soldiers roam the countryside. Too few of those abducted, including hundreds of children, have been allowed to return home. And continued lawlessness by the armed factions has sharply limited humanitarian access in those regions, particularly in the north and east, where assistance is most needed.

### **2. Medical Context**

Since 1994, Doctors Without Borders has provided medical and nutritional programs in Sierra Leone, including surgery, primary health care support, and water and sanitation. At the end of 1997, a psychosocial program was implemented around Magburaka in central

Sierra Leone, but because of the security situation, the program was suspended. After the January 1999 events, Doctors Without Borders, through trained local counselors, started psychosocial care to amputees in the hospital in Freetown.

Until recently, emergency medical programs have been dominated by a perspective emphasizing physical health and immediate relief. Behavioral, mental, and social problems were neglected. Since the genocide in Rwanda and the conflict in the Former Yugoslavia, it has become recognized that mental health and psychosocial programs can greatly contribute to the alleviation of the suffering of people in war and disaster-stricken areas (e.g. Ajdukovic, 1997). Focused primarily on the effects of post-traumatic stress, these programs have put the psychological consequences of massive man-made violence on individuals and populations on the agenda of the international community.

Research has shown that nearly all war victims experience recurrent and intrusive recollections, dreams, and sudden feelings of reliving the event (e.g. Bramsen, 1996). These responses are combined with increased arousal, avoidance of stimuli associated with the trauma, and numbing. Through the oscillation between intrusions and avoidance, the psychological integration of the traumatic experience is realized, which has been made clear in cognitive processing models (e.g. Creamer, 1995). Physical symptoms such as headaches, stomach pains, and back pains are often part of this process. These physical symptoms frequently cause persons to seek medical attention. The occurrence of mass PTSD can have a debilitating effect on communities. Daily experience in the field demonstrates that traumatized people impede the restoration of ordinary life and jeopardize conflict resolution.

Besides the mental and physical suffering that people experience, on a spiritual level their fundamental assumptions of control and certainty, as well as basic beliefs in the future and in the benevolence of other people, are also shattered--often beyond repair (Janoff-Bulman, 1992; Kleber & Brom, 1992). Research indicates that the duration and the frequency of traumatic experiences negatively influences physical, mental and spiritual coping mechanisms (e.g. Kleber & Brom, 1992).

Post-Traumatic Stress Disorder (PTSD) is frequently used in connection with traumatic events. The concept is well fitted to describe the serious and prolonged disturbances of individuals confronted with major life events. The distinctive criteria of PTSD (Diagnostic and Statistical Manual of Mental Disorders, 4th ed. (DSM-IV); APA, 1994) are (1) an extreme stress, (2) intrusive and re-experiencing symptoms, (3) avoidance and numbing symptoms, (4) symptoms of hyperarousal, and (5) symptoms of criteria 2, 3, and 4 should be present at least one month. The concept is also included in the International Classification of Diseases (ICD-10) of the World Health Organization (1992). PTSD is strongly associated with dissociation and somatization (McFarlane, Atchinson, Rafalowicz & Papay, 1994; Van der Kolk et al., 1996).

The concept of PTSD should be considered with care for several reasons. First, not all disorders after traumatic events can be described in terms of PTSD. It is not the one and only possible disorder after traumatic events, even according to the DSM system. Comorbidity has been found to be more prominent in trauma patients than was originally assumed (Kleber, 1997). Second, whether western conceptual frameworks on psychological stress and mental disorders can be transferred to different areas of the world are practical as well as theoretical and ethical questions (Kleber, Figley & Gersons, 1995; Summerfield, 1996).

Doctors Without Borders has been addressing the psychosocial problems of the survivors of violence in Sierra Leone before, during and after the January 1999 events. Doctors Without Borders is very concerned that neglect of the mental health and psychosocial problems of the large number of people who are suffering from prolonged traumatic experiences may cause serious problems for the future of Sierra Leone. Simply ending the war does not



eliminate the problem.

Doctors Without Borders decided to start a psychosocial program in Freetown. As part of its program, a population survey was conducted in Freetown to learn what people experienced, to what extent the events resulted in traumatic stress, and what other medical needs the inhabitants had. In the absence of other psychosocial surveys in emergency situations to serve as a model, the survey instruments were composed and partly designed by Doctors Without Borders.

### **III. Methodology**

#### **1. Target Population & Sample**

The survey was conducted after receiving the permission of the appropriate authorities, during the first two weeks of May 1999, four months after the atrocities in Freetown. Because everyone in Freetown had been subjected to traumatic experiences, both Internally Displaced Persons (IDP's) and residents were included in the sample.

A two-stage cluster sampling method was used, a methodology based on vaccination surveys. The methodology is extensively described in the various handbooks of WHO. The sampling method entails a first phase where 30 clusters are chosen. In the second phase a pre-set number of individuals are chosen per cluster. The sampling technique itself ensures that every individual has an equal chance to be chosen. The result obtained through sampling techniques is an approximation of the real value in the entire population. The real population value is in a range around the value obtained by the sampling method. The narrower the range, the more precise is the estimation. The precision depends on the sample size and the inter-cluster variation and the intra-cluster variation of the specific survey. The precision of the results with this two-stage sampling technique is less than the precision one would get with a random sampling technique.

The sample consisted of 30 clusters of 8 respondents, as the intra-cluster variation was thought to be reasonably small, since most traumatic events take place on a community level and not on an individual level. The sampling frame is based on the 1997 census of the Ministry of Health and UNICEF, which gives a population of 600,000. The rural part of the Western area (encompassing Freetown and its peninsula) was excluded because most of the area was not accessible during the survey for security reasons.

The areas (clusters) were chosen with a chance proportional to the population size. The teams went to the center point of these areas; a pen was spun to determine the direction and every tenth house to the right was selected until the eight necessary for the cluster had been identified. The most senior member of the household present was interviewed. Any refusals were noted and the selection process continued to the next tenth house. There was a note made on each questionnaire of the displaced or resident status of the interviewee. Where the cluster was in a displaced camp one person from each section of the camp was interviewed, depending on the layout of the camp.

Four survey teams were selected. Each team had to conduct eight interviews each day. All interviews were scheduled in the first two weeks. Eight interviews per day per team were the maximum due to the difficult nature of the information gathered.

#### **2. Training**

The survey teams consisted of two trained local counselors who did the interviews and a support team of one expatriate staff member and a driver. The training consisted of the following elements: introduction to Doctors Without Borders, the nature and purpose of the survey, confidentiality of the data and information, survey technique, data registration and

task division among crews. Some survey questions might have provoked strong emotions, so the counselors received special training on how to deal with them. They were also informed on referral possibilities for those in need of follow-up psychosocial support.

Counselors practiced interviewing skills on each other. The items of the questionnaire were discussed in depth until a final interpretation was agreed on each question. A pilot study of eight interviews was carried out by the teams in the National Stadium IDP site, Kingtom area, Aberdeen Junction and Murray Town. After the pilot interviews, problems of interviewing, sampling and approaching people were discussed. Ambiguities in the questionnaire were addressed. The training (including the pilot study) lasted two days.

**3. The Interview**

The counselors worked in pairs. After the counselors introduced themselves and Doctors Without Borders, the purpose of the survey was explained to the potential participant. In the introduction it was clearly stated that the participant would not receive any compensation, that the data were treated confidentially and that the interview would last for a maximum of 40 minutes. After the introduction the participant could decide whether to participate. The timing of the interviews was crucial, since people had to be at home and be available.

It was important that the participants completed the survey. To avoid exceeding the interview time it was explained that direct and short answers were necessary. Extra discussions or conversations were avoided. However, the counselors were permitted to stop or interrupt the interview when they deemed the questions to be too emotionally upsetting for the participant. When the counselor believed that the participant needed follow-up support, referral to professional counselors was facilitated.

All teams had a daily technical and emotional debriefing. Further emotional support for the counselors was provided through the Doctors Without Borders psychosocial peer support system for national staff, which was trained by the Doctors Without Borders Amsterdam Public Health Department and Psychosocial Care Unit.

**4. The Psychosocial Questionnaire**

The structured interview was based on a questionnaire consisting of 35 questions with subdivisions.

To control the time of the interview most questions offered a limited number of alternatives from which the participant could choose. Only two questions in the health section of the questionnaire were open ended. To limit the emotional burden the questions were put as factually and simply as possible. When unclear, a short explanation was allowed. Participants were not allowed to fill the questionnaire later nor were they permitted to study the questionnaire in advance. Interviewers had to respect confidentiality at all times.

No trans-cultural tools to measure traumatic stress are available. To assess the level of trauma, three important indicators of traumatic stress were measured. The first indicator is the presence of a potential traumatic event. The second indicator is the impact of event scale, which expresses the extent of traumatic stress response. The third indicator appraises physical complaints, which likely are correlated to traumatic stress. When all three indicators of traumatic stress were positive, at least strong circumstantial evidence for the prevalence of traumatic stress was found.

The psychosocial questionnaire was composed of four sections. The first section assessed the demographics and personal background of the participant. A second section appraised traumatic events such as exposure to violent situations, who was lost and the traumatic events witnessed. Both the number of traumatic experiences and their length are important

risk factors in the development of PTSD (Kleber & Brom, 1992).

The third section measured the impact of these events. To measure the prevalence of traumatic stress responses the Impact of Event Scale was used (Horowitz, Wilner & Alvarez, 1979). This psychometric instrument assesses two central dimensions of coping with drastic life events: intrusion and denial. It has been used worldwide and generally consistent structures have been found across samples and situations (Dyregrov, Kuterovac & Barath, 1996; Joseph, Williams, Yule & Walker, 1992; Robbins & Hunt, 1996; Schwarzwald, Solomon, Weisenberg & Mikulincer, 1987; Silver & Iacono, 1984; Zilberg, Weiss & Horowitz, 1982). Despite its wide use, interpretations of the outcomes should be done with appropriate care since the Impact of Event Scale is not validated either for Western Africa or for Sierra Leone.

The final section of the questionnaire evaluated current physical health complaints and needs. PTSD is frequently associated with somatization. Physical symptoms like headaches, stomach problems, general body pain, dizziness or palpitations are often expressed by people suffering from traumatic stress. A high prevalence indicates a possible high level of traumatic stress or PTSD. Physicals are registered by means of open-ended questions. The access to health care and the perceived health levels were registered using the Lickerd scale.

**5. Data registration**

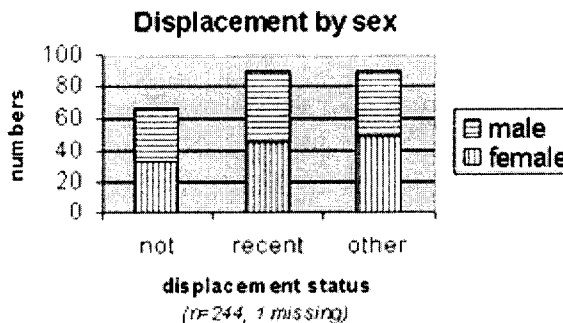
The forms were registered anonymously. Data were entered in a spreadsheet in EXCEL, and data were analyzed by EXCEL and EPIINFO-6.

**IV. Results**

All four teams contributed equally to the survey (each 25%). The fixed number of interviews in each cluster (n=80) was extended in four clusters (Old Warf, Aberdeen, Approved School/Kuntoloh, National Workshop). The total number of respondents was 248 (n= 248), of which three respondents were excluded because they were younger than 15 years.

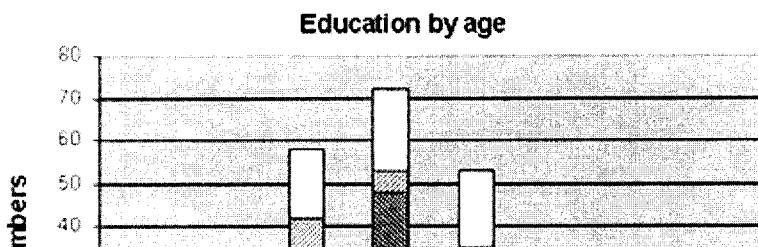
**1. Demographics (First section)**

In total 91 (37%) respondents were recently displaced; only 66 (27%) were residents. The others (37%) could not be placed in one of these categories. A possible explanation is that many people had been displaced in earlier years. About half (52%) of the respondents were female (Confidence interval 95% level: 46.4 – 56.8).



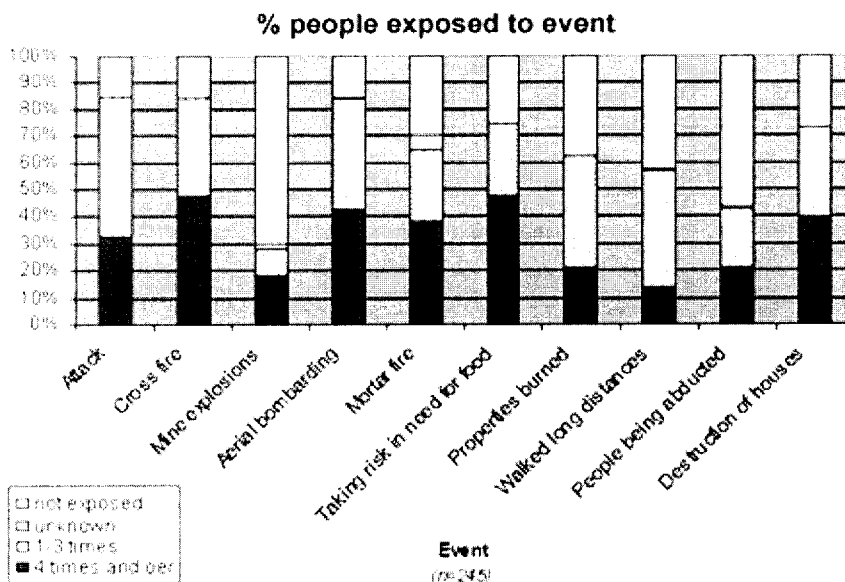
The age of the respondents varies from 15 up to 81 years with a majority of the respondents in the middle age group of 35-44 years (29%). The majority has attended primary school, also in the older age groups; on average 30% have not had formal education.

**2. Appraisal of traumatic experiences (Second section)**



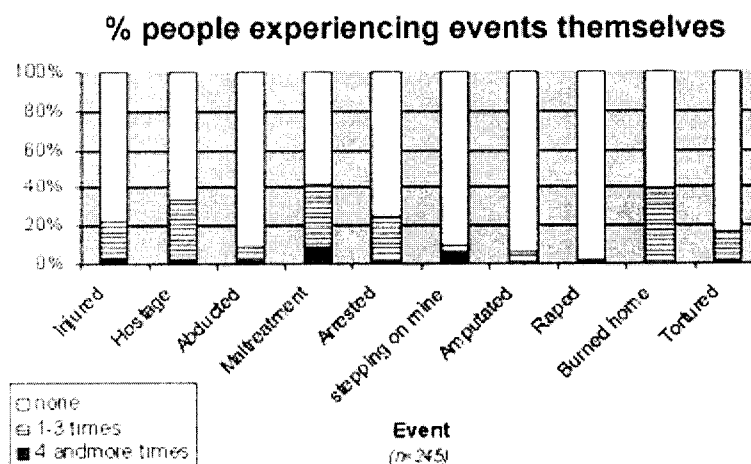
Graph 3 shows what situations the respondents have faced. Incidents include: attack on village (84%), exposed to cross fire (84%), explosion of mines (28%), aerial bombing (83%), mortar fire (65%), burning of properties (62%) and destruction of houses (73%), indicating that large groups of the population of Freetown have been caught in direct war. In addition to the direct threats caused by the hostilities, the lack of food and other commodities forced people to take extra risks (74%). A smaller number of people (57%) had to walk long distances to find a safer place. The risk of abduction was clearly present since 43% of the respondents reported having been exposed to abductions. Generally half of the respondents indicate that the event had taken place more than three times.

Coping with traumatic events is more difficult when people themselves experience immediate life-threatening circumstances (Kleber, Brom; 1992). Graph 4 shows what life-threatening traumatic experiences some of the respondents survived.



The respondents were allowed to report on all items. The percentages are related to the number of people having experienced that event as a proportion of the total number of respondents. Several people suffered from multiple life-threatening experiences.

A high percentage of respondents directly experienced at least once an event threatening their physical integrity, either by maltreatment (39%) torture (16%) or amputations (7%). 40% of the respondents have seen their houses burned down; 33% were taken hostage. The percentage of people reporting abduction is, in contrast to the above, relatively low (7%). The relatively low report on rape (2%) should not be misinterpreted. Rape is, as in most other countries, a taboo topic. Rape victims usually do not report this crime to avoid serious repercussion from their family or to evade the stigma communities and society impose on these victims.



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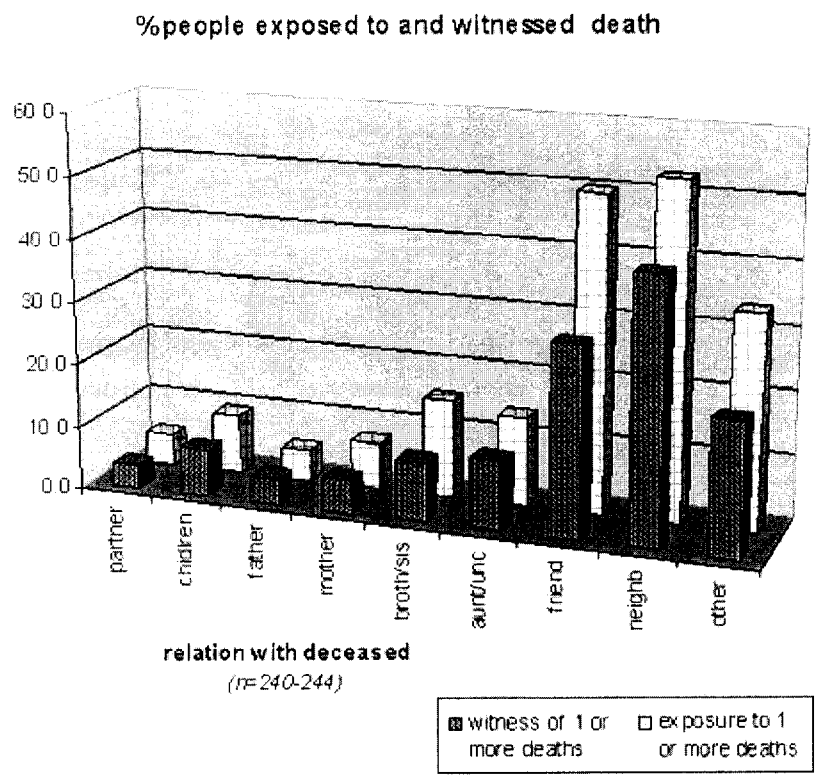
The dire food situation is by far the highest life threatening experience, as it was reported

by almost all the respondents (99%).

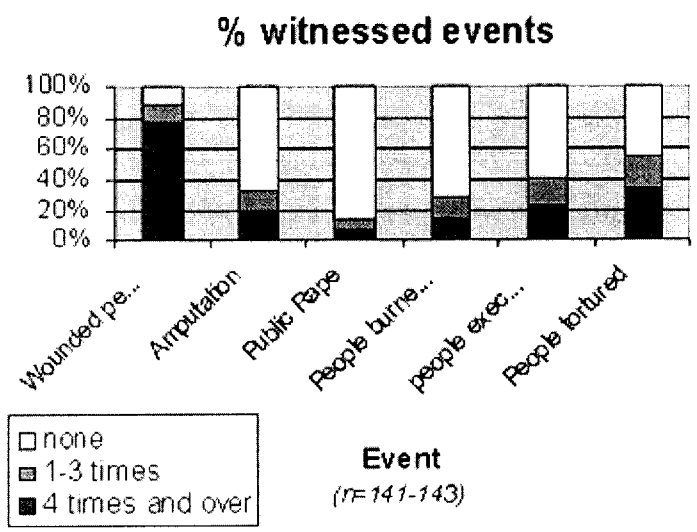
### 2.2 Loss and witnessing

Conflict and violence are closely related to loss. Loss of loved ones and witnessing their violent death might be one of the most serious risk factors for PTSD. Graph 5 gives an overview of both.

The percentage of people lost increases with the number available. The loss in the nuclear family (partner (5%), father (5%), mother (7%), child(ren) (9%) and siblings (16%)) is reported less than the loss of more "distant" family members (aunt, uncles (14%)). The percentages reported on death of neighbors (53%) and friends (50%), is clearly higher, since there are more of them. These data indicate that at least 50% of the respondents lost someone they knew very closely. Many respondents witnessed the death of a close person: 30% witnessed the death of a friend, 41% that of a neighbor. Additionally 7% witnessed the death of their child.



To create terror a perpetrator often demands others to witness the atrocities. The psychological impact of actually witnessing horrific events imposes a serious psychological stress. Deliberately or not, witnessing at least once events such as torture (54%), execution (41%), (attempted) amputations (32%), people being burnt in their houses (28%) and public rape (14%) often results in traumatic stress or even PTSD. Almost all respondents reported to have seen wounded people at least once (90%). Graph 6 gives an overview.



### 3. Impact of Event Scale (Third section)

The inhabitants experienced horrific events. The third section measures the prevalence of traumatic stress responses through the Impact of Event Scale questionnaire (Horowitz, Wilier & Alvarez, 1979). The PTSD score as outcome of the Impact of Event Scale (I.E.S.), is constructed around two clusters of reactions. Intrusions such as flashbacks, nightmares and reliving the event are indicators of the preoccupation with the events that often characterize survivors of violence. Complaints like "I can't stop thinking about it" combined with the unpredictable occurrence of flashbacks often provoke feelings of having lost control or becoming crazy. To compensate for the agony of ongoing intrusions, survivors try to avoid situations, places, conversations or people that remind them of the events. The avoidance as well as the intrusions has a debilitating effect on the survivors' social life. Social withdrawal and a life obsessed by fear and avoidance may be the destiny of those that suffer from severe, chronic PTSD.

The overall PTSD scores registered on the I.E.S. are high. When the cut of scores (no problem: 0-10, at risk: 11-25, PTSD: 26-75) for Western Europe are applied, no one reports to having "no problem." Two people have scores indicating a risk for developing PTSD. All other respondents (99%) have scores on the I.E.S. that are associated with PTSD in a Western European setting. In the current survey most

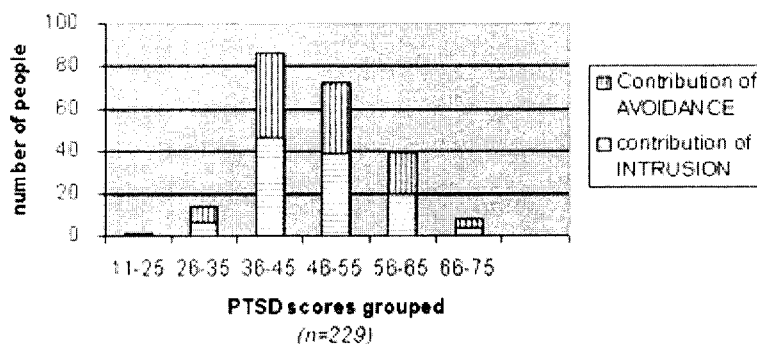
people (111, 27%) have scores between 36 and 45, which is similar to the number of people having scores between 46 and 55. Graph 7 shows the scores on the I.E.S. No significant differences were found between the contribution of intrusions and avoidance on the overall PTSD score. There were 16 respondents who were not able to give a clear answer on one of the questions composing the PTSD scale; these respondents are excluded from the total PTSD score. The average score on the PTSD scale was 47.6, with a confidence interval of 45.6-49.6 (95% confidence level). This result shows good precision.

The results on the I.E.S. are consistent with the conclusions on the appraisal of traumatic experiences. The reported high numbers of traumatic experiences may explain the high scores on the I.E.S. However, this conclusion has to be read with care. The I.E.S. is not validated in Sierra Leone and may therefore be subject to differences in understanding some questions. Moreover the cut-off scores may prove to be quite different then the ones used by us. Despite these considerations, high levels of traumatic stress are evident, since even when the cut of score is raised to 55 (more then doubled), 63 people (25%) still suffer from severe traumatic stress or even PTSD.

**4. Physical health (Section 4)**

People suffering from traumatic stress and PTSD often have physical complaints like headache, stomach problems, body pain, dizziness or palpitations. Frequently the complaints cannot be

**Frequency PTSD scores and contribution of intrusion and avoidance**



**Frequency of 1st and 2nd most important physical complaint**



related to a physical disease or disorder. Nevertheless, the physical complaints are expressed in frequent visits to the overburdened health care settings. People continue to search for a physical cure to alleviate their emotional problems. Medical people are not aware of or feel powerless against the somatizing patient and offer medication. Despite the costs both to the patient and the health system, this situation is frequently found in health settings in violent contexts. Some indicators of physical health and medical needs are described below.

Since the onset of the violence, the majority of the respondents (85%) perceived their health to be worse than before. Consistent with this finding is the occurrence of unclear physical symptoms reported by the majority of the respondents (78%). As a result, 42% of the respondents visited the health post or clinic at least twice in the four weeks prior to the survey.

	NOT AT ALL	RARELY	SOMETIMES	OFTEN	<i>n</i>
UN-HEALTHIER	19 (8%)	19 (8%)	132 (54%)	74 (31%)	244
UNCLEAR SYMPTOMS	33 (13%)	21 (9%)	125(51%)	66 (27%)	245
HEALTH POST VISIT	100 (41%)	35 (14%)	76 (31%)	27 (11%)	238

The table above is an overview of perceived health, the occurrence of unclear symptoms and the number of health post/clinic visits (Rarely = 1; Sometimes= 2.3; Often= 4+).

The results of the fourth section (physical health) confirm the tendencies reported earlier. Traumatic stress associated with physical complaints (like headache (39%) and body pains (12%)) is reported most frequently. The visits to health facilities are relatively high (42%). The majority takes medication (e.g. paracetamol, panadol, vitamins, chloroquine).

## V. Conclusions

The survey among respondents from all suburbs of Freetown indicates high levels of traumatic stress among the population surveyed. Every indicator (experienced events, Impact of Event Scale and Physical Health) points in the same direction. The indicators are discussed below.

The responses on the second section appraise the traumatic experiences of the respondents. The high percentages of certain events (starvation (99%), witnessing wounded people (90%), having lost someone close (at least 50%)) result in a clear conclusion that most respondents living in all parts of Freetown have experienced at least one traumatic experience. It is likely they have been subjected to many more.

The Impact of Event Scale (Horowitz, Wilner & Alvarez, 1979) indicates high levels of traumatic stress and PTSD in the survey population (99%). The final score on the I.E.S. is constructed around two clusters of reactions: intrusions (e.g. flashbacks, reliving of events) and avoidance (e.g. evasion of situations, amnesia). Neither of them contributed significantly more to the overall PTSD score.

The outcome of the Impact of Event Scale (I.E.S.) is not conclusive and should be considered with care since the I.E.S. questionnaire is not validated for Sierra Leone and the cut-off scores applied in this report are based on Western European data. The outcomes on the I.E.S. should not lead to the conclusion that almost everybody in Sierra Leone is traumatized and suffers from PTSD or other mental health problems. However, the high scores on the I.E.S. are supported by the outcomes on the appraisal of traumatic experiences (second section).

The results of the last section (physical health) confirm the tendencies reported earlier. Traumatic stress associated with physical complaints (like headache (39%) and body pains (12%)) is reported most frequently. The visits to health facilities are relatively high (42%).

The high levels of traumatic stress or even PTSD indicate a clear need for psychosocial or mental health interventions to address the needs of the survivors of violence in Freetown. To focus humanitarian aid only on material restoration and physical needs denies the shattered emotional worlds of the population, and ignores the ruined basic assumptions of trust and the benevolence of human beings. It leaves unaddressed the broken morale of the survivors and the spiritual consequences of war.

A population that is in general psychologically healthy can prosper and overcome the burdens of the past. Psychologically healthy people can also solve their disagreements in less violent ways. Helping traumatized people is a matter of restoring the bond between the individual and the surrounding system of family, friends, community and society. To overcome mass traumatization as in the case of Sierra Leone, the healing capacity of family and community systems must support people in their coping with extreme stress and more severe mental health problems. Psychosocial and mental health programs are evident tools in this process and should not be overlooked. The involvement of Sierra Leoneans in these programs is of crucial importance.

**Annexes**

SECTIONS	ESTIMATED TOTAL POPULATION	CUMULATIVE POPULATION	ATTRIBUTED NUMBERS	NO. OF CLUSTERS PER SECTION
EAST 1	106458	106458	1 - 106458	5
EAST 2	112910	219368	106459 - 219368	5
CENTRAL 1	35748	255116	219369 - 255116	2
CENTRAL 2	27542	282658	255117 - 282658	2
WEST 1	52870	335528	282659 - 335528	2
WEST 2	73258	408786	335529 - 408786	4
EAST 3	112972	521758	408787 - 521758	5
WEST 3	80800	602558	521759 - 602558	5
Total No.	602558			

Table 1: Key areas and cluster distribution

	TEAM 1	TEAM 2	TEAM 3	TEAM 4
DAY 1	CALABA TOWN	OLD WHARF	MURRAY TOWN	ABERDEEN/ FERRY RD
DAY 2	APPROVED SCHOOL/ KUNTOLOH	BAILO BARRY/ DOCKYARD	LUMLEY	ABERDEEN VILLAGE
DAY 3	NATIONAL WORKSHOP	MAYIBA/ KISSY BROOK	WILBERFORCE VILLAGE	TENGBETH TOWN
DAY 4	FOURAH BAY	KANNIKAY	KINGTOM	NATIONAL STADIUM
DAY 5	BOMBAY STREET	GUARD STREET	KROO TOWN ROAD	KROO BAY



DAY 6	GINGER HALL	HAISHOBI CORNER	SUSAN'S BAY	GOVERNMENT WHARF
DAY 7	MOUNTAIN CUT	MAGASINE COURT	BROOKFIELDS	SACKVILLE ST/ LUMLEY ST
DAY 8	DAN STREET	SORIE TOWN		

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**B. "The Fear is Still in Me": Caring for Survivors of Torture (American Journal of Nursing), October 2004**



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## 'The Fear Is Still in Me': Caring for Survivors of Torture

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'The Fear Is Still in Me': Caring for Survivors of Torture: How to identify, assess, and treat those who have endured this extreme trauma.  
[FEATURES: CE]

McCullough-Zander, Kathleen MA, RN, CTN; Larson, Sharyn BS, RN, PHN

Kathleen McCullough-Zander is the former clinic manager, St. Paul Healing Center, and Sharyn Larson is the clinic manager, Minneapolis Healing Center, both facilities of the Center for Victims of Torture in Minneapolis. Some of the research mentioned here was funded by local grants from the Otto Bremer Foundation, the Archibald Bush Foundation, and the Blue Cross and Blue Shield Minnesota Foundation. Contact author, Sharyn Larson: (612) 436-4814, slarson@cvt.org. The authors of this article have no other significant ties, financial or otherwise, to any company that might have an interest in the publication of this educational activity.

Editor's note: The three cases that begin this article are composite characters based on real survivors of torture. The fourth case, that of the Cambodian woman, is real, but details have been changed to protect her anonymity.

While visiting the home of a 34-year-old immigrant from Cameroon who recently delivered her second child, a public health nurse notices that the woman's husband seems overly vigilant. During the visit, the couple's three-year-old son makes a loud noise by hitting a plastic toy against a wooden table. The husband jumps up at the sound, then yells at his son for making noise. After her husband leaves the room, the woman explains that he doesn't sleep well and that "he hasn't been the same" since his imprisonment in Cameroon for organizing a public demonstration critical of the government's human rights abuses. Weeping, she explains that her husband used to be a happy person who enjoyed life. She says she doesn't know what was done to him during his imprisonment because he won't discuss it with her, and now she doesn't know how to help him.

A 26-year-old Iraqi man comes to the ED of a county hospital complaining of chest pain. The man speaks limited English. While waiting for the Arabic interpreter, the nurse checks his blood pressure and pulse, which are 150/98 mmHg and 110 beats per minute, respectively. Using gestures, she indicates that the man should remove his shirt and lie down; he seems nervous but complies. As she places cardiac monitor electrodes on his chest and begins connecting the monitor cables, she notices dime-size scars on his chest. The man sits up suddenly and pulls off the electrodes, shouting, "No! No!" He grabs his shirt and walks out of the ED.



FIGURE. Torture Victim in a Spider's Web , Anonymous, watercolor on paper, 8.273 3 11.693, early 1980s. The artist, who wishes to remain anonymous, is a survivor of torture.

A 24-year-old Ethiopian Oromo woman has an appointment at a neighborhood clinic. Upon reviewing the patient's chart, the clinic nurse notices that the patient has visited the clinic four times in three months with abdominal and lower-back pain. Twice this woman was hospitalized for testing; all results were normal. When the nurse asks how she feels today, the patient places her hand over her lower abdomen and says, "Please, you must help me. I have terrible pain."

Although you may not realize it, if your patient population includes refugees, you are probably caring for survivors of torture. The cases described above represent just three of an estimated 400,000 to 500,000 survivors of torture now living in the United States. **1** Amnesty International's most recent annual report cites instances of torture and "ill treatment" by state authorities in 132 out of 155 nations (85%)—including the United States. **2** A literature review conducted by Eisenman and colleagues found that between 5% and 35% of refugees (men, women, and children) worldwide have been tortured. **3** And in particular cultural groups, the percentage of torture survivors may be even higher. For example, a recent study conducted in Minnesota among Ethiopian Oromo and Somali refugees found the prevalence of torture to be as high as 69%. **4**

Countries that have ratified the United Nations' 1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (including the United States, in 1990) are legally bound to ensure that health care personnel learn about torture. **5** But such education has not yet been included in the curricula of U.S. schools of nursing. The Center for Victims of Torture (CVT; [www.cvt.org](http://www.cvt.org)) in Minneapolis, where each of us has worked or works, focuses on treating survivors of torture by foreign governments. The CVT's resources are limited and so therefore is its focus; although torture is sometimes perpetrated by U.S. citizens against U.S. citizens, it was thought that these survivors would have greater access to the mainstream health care system. This article focuses on immigrants or refugees living in the United States who have been tortured.

#### AN OVERVIEW

Torture defined.

The Geneva Conventions that were written in 1949 and ratified by the United States in 1955 constitute the main source of international humanitarian laws today, according to Human Rights Watch. **6** The conventions explicitly forbade "physical or mental coercion" and made the use of torture a war crime; they were a basis for the 1984 United Nations convention mentioned above. In 1975 the World Medical Association defined torture as "the deliberate, systematic, or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason." **7** In its 1998 position statement on nurses and torture, the International Council of Nurses stated that "nurses have the duty to provide the highest possible level of care to victims of cruel, degrading, and inhumane treatment. The nurse shall not voluntarily participate in any deliberate infliction of physical or mental suffering." **8** (See Working Against Torture: The Importance of Education, page 60.)

Why people torture.

While the media usually portray torture being used to extract information from someone, this is just one aspect; in fact, information so obtained is notoriously unreliable because most people subjected to torture will admit to anything. The primary goal of torturers is to gain power over others and to silence opposition. Individuals, communities, and even entire countries have been controlled through the use of torture. For example, from 1973 to 1990 Chile was governed by a military regime led by Augusto Pinochet, on whose orders thousands of people were put to death, tortured, or kidnapped (the "disappeared") for supporting the previous regime and for protesting the Pinochet government's human rights abuses. The fear engendered silenced countless people. Considered by experts to be at epidemic levels worldwide, torture has been used for as long as humans have sought power over one another. As Conroy noted, "Torture was routine in ancient Greece and Rome, and although methods have changed in the intervening centuries, the goals of the torturer—to punish, to force an individual to change his beliefs or loyalties, to intimidate a community—have not changed at all." **9**

The rise of the use of torture worldwide in recent years appears related to greater political instability, economic inequality, and war, which have displaced huge numbers of people, many of whom become refugees. In 1980 the U.S. Congress passed the Refugee Act, adopting the international definition of refugee, as put forth in the United Nations' Convention and Protocol Relating to the Status of

Refugees: a person who, because of "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion," has left his home country and is unable or unwilling to return. **10** Today the federal Office of Refugee Resettlement recognizes that "many members of groups residing in the United States, including refugees, asylees, immigrants, other displaced persons, and U.S. citizens, may have experienced torture." **11**

#### TORTURE AND ITS EFFECT ON SURVIVORS

There has been some debate among mental health professionals as to whether a distinct "torture syndrome" exists. Regardless, it's possible to identify survivors of torture.

The physical effects of torture depend on the methods used and may involve structural damage, disturbed function, or both. **12** Because victims are often subjected to many forms of torture—severe beatings to the soles of the feet (falanga) or other parts of the body, prolonged immobilization, electric shock, and rape—establishing etiology for a particular injury is difficult. It's rare for U.S. clinicians to see refugees with recently acquired physical injuries because travel takes time. Chronic sequelae such as untreated fractures, mutilation of genitalia, or paraplegia may be present. Over the long term, survivors of torture are at increased risk for "infectious disease, malignancies, cerebrovascular accidents, and heart disease," as compared with nontortured, culturally matched controls, according to Goldman and Goldston (as cited by Basoglu and colleagues in *The Mental Health Consequences of Torture*). **12** The reasons for the differences in risk are unknown. Survivors may also have illnesses such as tuberculosis or parasitic infection acquired in prison, in a refugee camp, or by fleeing.

Psychological effects.

At the CVT, survivors say that psychological torture is harder to endure than physical torture and that its effects are more difficult to live with. Forms of psychological torture include prolonged interrogation, sensory deprivation, mock execution, and being forced to watch loved ones being tortured.

Posttraumatic stress disorder (PTSD) and depression are the most common psychological disorders in people who've survived torture. Symptoms of PTSD commonly seen in this population include "reexperiencing phenomena" (such as flashbacks, intrusive thoughts, and nightmares), the avoidance of stimuli associated with being tortured (such as other people from one's cultural group, people in uniforms, windowless rooms), and physiologic symptoms of increased arousal and reactivity of the sympathetic nervous system (such as hypertension, sleep disturbances, and a heightened startle response). **12, 13** Survivors may find themselves caught in a cycle of trying to move on with their lives as vivid reminders of the past encroach. Though it may seem paradoxical, severely depressed survivors can have physiologic symptoms of increased arousal and reactivity; clinicians should look for symptoms of both depression and PTSD. Other possible symptoms include social isolation, impaired memory and concentration (which may or may not be a result of head injury), fatigue, sexual dysfunction (especially if sexual trauma has occurred), and personality changes. **12** (See "PTSD in the World War II Combat Veteran," November 2003.)

Although PTSD appears to be a common response to severe stress, the interpretation and expression of symptoms differs among cultural groups. **14** For example, a 49-year-old Cambodian woman who survived the "killing fields" of the Khmer Rouge and emigrated to the United States several years ago reported that for more than 25 years she has experienced chronic headaches, abdominal pain, nightmares, and difficulty sleeping. Her U.S. providers attributed these symptoms to the extreme trauma she had endured, which included being starved, beaten, raped, and forced to witness the torture and execution of family members and friends. But the woman believed that her symptoms were caused by the spirit of her dead mother, who "shook" her feet at night because her daughter hadn't buried her properly. Some survivors view their suffering as punishment for bad behavior in this or a previous life.



FIGURE. Surrounded by Torturers He Cannot See, Anonymous, watercolor on paper, 8.273 3 11.693, early 1980s.

Somatization refers to the physical expression of psychological needs. Most cultures regard mental health in absolute terms—one is either sane or crazy—and thus physical symptoms are more socially

acceptable than psychological ones. For example, one person might express emotional pain as a gastrointestinal disorder; another might say that his head is "too hot." Survivors frequently complain of head, shoulder, back, or abdominal pain, yet in many cases no physical cause can be found on examination. **15** With time, as the emotional issues are addressed, the physical pain diminishes or disappears.

Variations in symptoms can be tremendous among survivors. In our experience, risk factors for a greater severity of symptoms include longer duration and greater intensity of torture, a history of abuse during childhood (before the torture), an absence of social support after the torture, young age at the time of torture (children are particularly vulnerable), and any history of mental illness. Another risk factor is having family members who were tortured or killed in retribution for the survivor's political activities. However, as Basoglu and Aker note, "some torture survivors never develop psychological problems . . . others recover from the trauma spontaneously." **16** Many survivors would agree with Dianna Ortiz, an American nun who was tortured in Guatemala, who writes, "Considerably more attention must be given to our resilience and less to what others may consider to be our weakness, our pathological behavior." **17**

Ortiz also notes that survivors often "try to cope with the aftermath of [their] trauma by searching for ways to numb the pain," **17** such as through alcohol or drug abuse, high-risk sexual behavior, excessive sleeping, and even self-injury or suicidal thoughts. It's important for clinicians to realize that though injurious in the long run, these behaviors may have short-term survival value for torture survivors. Ortiz cautions, "Hearing the behaviors that have allowed us to survive described as deviant or pathological only reinforces our sense that we are misunderstood [and] alone." **17** The rate of suicide among torture survivors is unknown.

According to Amnesty International (as cited by Basoglu in the Journal of the American Medical Association **18**), torture occurs more often in the context of other severe stressors such as war and other forms of armed conflict. Symptoms are more pronounced in refugees than in those who remain in their homelands, because of the added stress associated with the loss of one's family, community, and country and having to adapt to a new culture.

The families and communities surrounding survivors of torture are also profoundly affected. A study of 85 children whose parents had been tortured showed that 68% had emotional disorders, physical symptoms, or both. **19** Specifically, 34 children had insomnia and nightmares, 34 suffered from anxiety, 12 had chronic stomachaches, 13 had frequent headaches, 15 wet their beds, 13 had anorexia, four had impaired memories, and 16 demonstrated unspecified "behavioral difficulties." Conroy reports that "studies of Nazi Holocaust survivors have found that their children and even grandchildren have higher rates of clinical depression and suicide than the population at large." **20**

Some of the current social problems within the African-American and Native-American communities (for example, these groups have higher rates of domestic violence, alcoholism, and drug abuse than most other groups) may be the result of intergenerational transmission of the effects of torture. With intergenerational transmission, symptoms such as depression and low self-esteem are often seen not only in the survivors but also in their descendants for generations. Maria Yellow Horse Brave Heart, associate professor of social work at the University of Denver, in Colorado, has labeled this phenomenon "historical trauma." **21** According to Brave Heart, symptoms in a community affected by historical trauma include elevated rates of suicide, depression, self-destructive behavior, substance abuse, obsessive thoughts about past trauma, somatization, anxiety, guilt, and chronic grief. Many of the symptoms of historical trauma are the same as those seen in survivors of torture.

## TREATMENT

The treatment of torture survivors is a relatively new field, and much is still unknown. Although some psychologists and psychiatrists had worked with Holocaust survivors, it wasn't until the 1970s that torture treatment began to be viewed as an area deserving of focus. The world's first torture treatment center, the Rehabilitation and Research Centre for Torture Victims, opened in 1982 in Copenhagen, Denmark. In 1985 the CVT became the first such center in the United States. Currently, there are 30 centers in the United States, with more planned or in development, and more than 200 worldwide.



There is no published nursing research on torture survivors; what little research exists has been done in the fields of medicine and psychology. There is little information on the treatment of torture survivors and thus little consensus on which interventions are best. **13** Many survivors of torture are unaware that their current symptoms are the result of having been tortured.

In Europe and the United States, the primary treatment modality has been psychotherapy using cognitive-behavioral and insight-oriented approaches. **22** Cognitive-behavioral therapy emphasizes the role of thinking in how patients feel and act. The underlying premise is that thoughts, not external situations, cause feelings and behaviors; thus, learning to think differently will result in desired change. Insight-oriented therapies ("talk" therapies) focus on a patient's current or past experiences, thoughts, and feelings. The underlying assumption is that gaining insight into one's feelings and actions can bring about desired change.

Psychotropic medications, especially selective serotonin reuptake inhibitors that have been approved by the Food and Drug Administration for the treatment of PTSD, such as paroxetine (Paxil) and sertraline (Zoloft), are also used frequently in the treatment of torture survivors. Although no research on their use in treating torture survivors has yet been done, the efficacy of these drugs in treating anxiety and depression associated with PTSD is well established.

Many survivors now living in the United States have difficulty obtaining access to health care that is affordable and culturally appropriate. In our experience, cultural differences in beliefs about health, illness, and care create the most formidable barriers to their getting that care. Western-based psychological treatment isn't acceptable to all survivors, and as Ortiz has noted, "Talk therapy is not the only form of treatment that has proved useful." **17** She points out that treatment by traditional or "folk" healers and interventions considered alternative or complementary in Western health care, such as herbal remedies, massage therapy, aromatherapy, and breathing and relaxation exercises, may also be valuable. For example, a British nurse and Reiki practitioner reported that Reiki treatments helped reduce the frequency and severity of nightmares, abdominal pain, headaches, and stress in two Bosnian torture survivors. **23**

#### NURSING CARE FOR TORTURE SURVIVORS

##### Torture assessment.

If a nurse suspects that a patient may have been tortured, an assessment for this should be done. A good opening question is "Can you tell me a little about what happened in your country that made you come to the United States?" Based on the patient's response and apparent comfort level, the nurse might follow with more specific questions, such as "I know that in your country many people have been beaten or arrested by soldiers or rebels. Have you ever been attacked like that?" We find that it's best to avoid the word "torture" as the word encompasses different things in different cultures. For example, not all cultures consider rape to be a form of torture.

We have found that it can be very therapeutic for survivors to tell their stories. As nurses, we are often so busy with more concrete tasks that we sometimes forget the tremendous healing power of presence and empathy. Indeed, in the July 1 issue of the *New England Journal of Medicine*, Mollica noted that "despite routine exposure to the suffering of victims of human brutality, health care professionals tend to shy away from confronting this reality . . . they believe they won't have the tools or the time to help torture survivors once they've elicited their history." **24** Clinicians may also fear that asking the survivor to retell his story will retraumatize him. However, survivors frequently tell us that although telling their stories is difficult, having someone believe them and show concern for them outweighs the difficulty.

It's important to let the survivor proceed at his own pace and to tell as much or as little of his story as he's comfortable with. Many survivors have said that simply being listened to is beneficial; some have never told friends or family members what happened to them. Some survivors may be very reluctant to relate their experiences; others may tell a story without any apparent emotion. (The suppression of emotion is one sign of PTSD and can be a reaction to torture.) Assurances of confidentiality are essential, as survivors often feel great shame about the torture they experienced and may fear what others will think. This may be especially true if an interpreter must be present. Thus, under no circumstances should a family member or friend be used to interpret when asking a patient whether she has been tortured.

Nurses should be aware that survivors who tell their story will need continuing care once the trauma is revealed. Survivors' trust in other human beings has been deliberately damaged. Nurses will need patience and commitment in forming therapeutic relationships with torture survivors. Supporting their autonomy and allowing them as much control as possible in a given situation will help. For example, questions such as "Where would you like to sit?" and statements such as "Tell me when you'd like to take a break" can be useful. **25**

Beyond the assessment.

Assisting survivors with whatever they feel is most important at that moment may be the best way to support them. Often social service and economic issues are paramount, especially for recent immigrants. Survivors may need help obtaining basic necessities such as food, clothing, and housing before they can begin to deal with the effects of torture. Teaching them relevant survival skills—such as how to access and navigate the health care system or how to use mass transit, enroll a child in school, or use a bank—also helps them gain some control of their situation and rebuilds confidence.

Survivors generally need help in understanding the link between the torture and its physical and psychological effects. There is some controversy about whether a survivor of extreme trauma who has PTSD or depression can be considered to have a mental illness; it's argued that these are normal responses to horrific experiences. Regardless, it seems clear that clinicians must be sensitive to what survivors have endured. Ortiz, speaking on behalf of survivors, writes, "We readily acknowledge that the trauma we have endured has altered our lives. . . . We want to be recognized as normal people, people who were tortured and who have survived with tenacity, grace, and dignity." **17** Garcia-Peltoniemi and Jaranson (as reported by Laurence in *Issues in Mental Health Nursing*) found that many survivors are "tremendously relieved to hear that symptoms they are experiencing are a direct result [of] the extreme experiences they were forced to endure and not because they are crazy, possessed by spirits, or weak in character." **26** Survivors also want to know which symptoms of torture are permanent and which they can expect will heal with treatment.

Routine procedures can be extremely stressful for survivors of torture. For example, an electrocardiogram for a survivor of electrical torture or a gynecologic exam for a rape survivor may trigger a flashback. It's important to prevent or minimize such stressors to the extent possible. Many survivors can get through tests and procedures without being severely retraumatized if they're told what the test or procedure will entail and are given emotional support. Sensitivity to specifics is always important. For example, a female rape survivor might prefer a female clinician; a survivor who was tortured by someone from his own cultural group might be more comfortable with clinicians from a different background. In some cases, certain procedures (such as rectal or pelvic examinations for rape survivors) may best be done under anesthesia. Relaxation, meditation, and other coping strategies such as listening to quiet music also can be useful. These techniques allow survivors to calm themselves when they begin to feel anxiety.

Many refugees come from cultures in which the foods they consumed were much more nutritious than American fast foods; many refugees may have walked miles daily in their home countries and find that they get less exercise here. As would any refugee, survivors of torture will benefit from a thorough evaluation of their diet and exercise regimen. (For more information, see "From Sudan to Omaha," *In Our Community*, July.)

Community interventions.

Nurses' participation in the development of community-based interventions that are culturally appropriate is vital. Nurses will need to work with survivors and their communities to identify the most pressing issues and discern acceptable solutions. In addition to those built on a framework of Western psychology and "talk therapy," community support groups could be based on whatever survivors feel their needs warrant. For example, Survivors International ([www.survivorsintl.org](http://www.survivorsintl.org)), a nonprofit organization based in San Francisco, offers a Cambodian women's support group and a Bosnian women's sewing group.

For continued support and treatment, most survivors will need appropriate referrals, ideally either to a torture treatment center or to a mental health provider specializing in emotional trauma. But torture

treatment centers are not available in all areas; and even where a center is an option, some survivors may choose—for various reasons—not to go. Other health care providers, such as clinic staff or public health nurses, may sometimes be the only professional help available. Yet untrained providers may be hesitant to help. And although most torture treatment centers offer fees on a sliding scale, the cost of services elsewhere may be prohibitive to refugees, who as a group tend to have low incomes. As of this writing, there is no central clearinghouse of providers who specialize in working with torture and war trauma survivors.

Nursing implications.

Nurses need to conduct research on appropriate and effective treatment for survivors, including complementary and alternative therapies as well as Western-based modalities. Research is also needed on the effects of torture on the family and community, as well as on effective ways to combat the use of torture worldwide.

Many pioneers of public health nursing, including Margaret Sanger, Lillian Wald, and Lavinia Dock, viewed working for social justice and peace as a nursing function. **27** Laurence writes that “as promoters of health and well-being, nurses must take responsibility in the prevention of human rights abuses and in the promotion of human rights.” **26** We agree. These are especially timely issues for nurses, given the recent public debate over the use of torture by the U.S. military as a means of fighting terrorism.

We find that an overwhelming majority of survivors attribute their survival to their spiritual beliefs, yet this aspect is the least well incorporated into treatment. Nurses can help survivors by encouraging them to get involved with people and activities that bring renewed meaning and a sense of worth to their lives. Ortiz exemplifies this. About her work with the Torture Abolition and Survivors Support Coalition International (an organization she cofounded), she writes, “I used to think that God made an error in allowing me to survive—but I no longer believe that. . . . God, I believe, has united our voices . . . [in] calling for an end to torture.” **28**

Nurses must have in-depth knowledge of trans-cultural issues with regard to responses to torture. It’s also important for nurses to have some understanding of what life is like for most people in economically poor countries, what refugees have gone through in their home countries, and what adjusting to life in the United States entails. (One excellent resource is *The Middle of Everywhere: The World’s Refugees Come to Our Town*, by Mary Pipher, a family therapist in Lincoln, Nebraska, who writes perceptively about the lives of refugees, including torture survivors, from Bosnia, Vietnam, and Sierra Leone, among others.)

In keeping with the United Nations Convention Against Torture, U.S. nursing schools must begin to incorporate education on caring for torture survivors into their curricula. In 2001 the American Academy of Nursing issued Policy Recommendations for Nurses Caring for Victims of Torture, which include the following (quoted verbatim) **29** :

- \* Fund and administer educational training and support for nurses who will develop nursing care plans to assist victims of torture to find hope and healing.
- \* Include torture and treatment of its sequelae in nursing’s research agenda.
- \* Develop linkages with current centers of treatment to add nursing expertise.
- \* Support a conference or institute on the topic of torture and survivors of torture.
- \* Consider a . . . conference to develop a white paper on torture.
- \* Augment nursing educational training to add expertise in treatment of victims of torture in psychiatric mental health nurse practitioner programs.
- \* Extend the Academy’s support of [these] recommendations to the ANA, ICN, and Sigma Theta Tau to ensure that the profession of nursing contributes to healing victims of torture.

As of this writing, these recommendations had not been acted on.

The impact on nurses.

The prospect of working with survivors of torture can raise several concerns. First, nurses may fear

that they'll inadvertently do something that exacerbates a survivor's suffering. It's true that survivors are vulnerable; their vulnerability stems from a susceptibility to having trauma symptoms triggered by everyday events and, like other refugees, to a general lack of knowledge about U.S. culture. But most torture survivors are also strong and resilient people.

It's also true that many nurses don't have specialized knowledge or skills for helping people who have been tortured. Years ago nurses were in a similar situation with regard to suspected cases of domestic violence. Nurses often didn't ask whether domestic violence was occurring, either because they didn't know how to respond if it was or because they assumed the matter was someone else's responsibility; far too often, therefore, domestic violence was ignored. Nurses need to learn to work with survivors of torture and extreme trauma. Information on caring for survivors must be included in nursing schools and through continuing education courses.

For caregivers, hearing about the deliberate infliction of severe pain and suffering may be especially troubling. Nurses may worry that they too will begin to feel hopelessness and despair. Secondary trauma is prevalent throughout nursing, yet nurses aren't taught much about how to prevent or address it. Caring for oneself is more than simply finding time to relax; it requires having a deliberate plan for balancing all aspects of one's life. Each nurse must determine what this means for her. (For more on this subject, see "Understanding Secondary Traumatic Stress," July 2001.)

Complete the CE test for this article by using the mail-in form available in this issue or visit **NursingCenter.com**'s "CE Connection" to take the test and find other CE activities and "My CE Planner."

The Center for Victims of Torture The first in this country.

The Center for Victims of Torture, founded in Minneapolis in 1985, was the first treatment center for torture survivors in the United States. An independent nonprofit organization, it offers free treatment services to survivors living in the Minneapolis-St. Paul area, as well as in Guinea and Sierra Leone, West Africa. In Minnesota survivors work with a team of care providers, including doctors, nurses, psychologists, social workers, massage therapists, and physical therapists. The Minneapolis and St. Paul treatment programs serve approximately 200 to 300 people a year. In addition, the center provides education in working effectively with survivors of torture and war trauma for health care providers, students, educators, and social workers, training about 5,000 professionals annually. Basic and advanced nursing curricula have been developed, and the center's nurse trainer makes educational presentations in health care facilities, public health agencies, and nursing schools statewide. In West Africa similar programs offer refugees group therapy and education on the effects of war trauma. They provide education for African health care providers in how to care for survivors effectively; in some cases they also train refugees, who then serve as paraprofessional care-givers. In Guinea, for example, some Liberian refugees given training in the areas of communication, counseling, and conflict resolution have gone on to work with other refugees.

Working Against Torture: The Importance of Education  
INTERNATIONAL DECLARATIONS  
The United Nations.

As of June 2004, 136 states (out of 194 possible) had ratified the United Nations' Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1984); the United States ratified it in October 1994. (For the complete text, see [www.unhcr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhcr.ch/html/menu3/b/h_cat39.htm)). These states stand committed to condemning torture and refraining from its use under any circumstances. (Ratifying the convention has not eliminated the use of torture by these states, as recent news of the torture of Iraqi prisoners by American and British troops at Abu Ghraib prison indicates.)

Although the convention is not directly aimed at nurses and doctors, much of it is relevant to health care professionals. Two articles are of particular importance. Article 2 emphasizes that torture is never permissible or acceptable; it states that "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency" can justify the use of torture; neither can "an order from a superior officer or other authority." Article 10 makes "education

and information regarding the prohibition against torture" mandatory components in the training of medical personnel, including nurses.

The International Council of Nurses

(ICN) adopted its first position statement against torture in 1989. Revised in 1998, it's now known as the ICN's Position Statement on Torture, Death Penalty, and Participation by Nurses in Executions. (For the complete text, see [www.icn.ch/pstorture.htm](http://www.icn.ch/pstorture.htm).) The statement reads, in part:

The nurse's primary responsibility is to those people who require nursing care. Nurses have the duty to provide the highest possible level of care to victims of cruel, degrading, and inhumane treatment. The nurse shall not voluntarily participate in any deliberate infliction of physical or mental suffering.

The ICN also advocates the inclusion at all levels of nursing curricula the recognition of human rights issues and violations, including the use of torture.

Nurses will meet torture survivors among their patients. Survivors are often very reluctant to talk about or even mention what they have experienced, but the effects of torture will be evident if the nurse knows what to look for.

#### TEACHING NURSES: THE DANISH PERSPECTIVE

The Rehabilitation and Research Centre for Torture Victims in Copenhagen (RCT), the first center of its kind worldwide, was founded in 1982. In keeping with the importance placed on education by the aforementioned UN convention (Denmark ratified it in 1987) and the ICN position statement, one of the RCT's long-standing goals has been to offer targeted training about torture and torture survivors to nurse teachers at Danish schools of nursing. Ultimately the goal is to make such training compulsory in nursing education programs.

In the autumn of 1992 the RCT planned its first seminar for nurse teachers. The goal was to provide them with basic knowledge of torture, including the various methods and effects of torture, as well as rehabilitation, treatment, and services that they could then pass on to their students. Instruction also focused on nurses' responsibilities as outlined in the ICN position statement. The long-term objective was to teach students and nurses how to identify likely torture survivors and to plan care and treatment programs that would meet their specific needs.

The RCT has continued to offer the two-day seminars every other year since 1992. As of this writing, 136 nurse teachers have participated, and 35 are teaching these subjects to nursing students at several of Denmark's 22 nursing schools. The nursing schools cover the RCT staff's travel expenses and teaching fees; the RCT covers venue and food costs.

Nurse teachers who have taken the RCT seminar have expressed a need to share subsequent teaching experiences with colleagues at other nursing schools and to continue learning about torture and the treatment of torture survivors. They've also sought further discussion of practical matters, such as when during a nursing student's overall course of study the subject of torture should be taught and what course materials should be used. To meet these goals, the RCT now offers a follow-up seminar every two years. For more about the RCT and its work, go to [www.rct.dk/usr/rct/webuk.nsf/fWEB?ReadForm&Load=RTIG-4L5JTU](http://www.rct.dk/usr/rct/webuk.nsf/fWEB?ReadForm&Load=RTIG-4L5JTU) .

Nurse teachers are enthusiastic about passing on what they learn about caring for torture survivors, not only to nursing students, but to RNs and other health care students and professionals. They have become a new and vocal group in opposing the use of torture.— Lone Jacobsen, MA Health, RN (specialist in management, teaching, and systemic therapy), chief nurse and psychotherapist, Rehabilitation and Research Centre for Torture Victims, Copenhagen, Denmark, and member, ICN's Data Bank of Experts in Ethics

Common Methods of Torture

- \* Beatings with hands or objects (such as rifle butts or clubs)
- \* Electric shocks to sensitive body parts
- \* Hanging by the arms, legs, or shoulders
- \* Sexual humiliation and rape
- \* Burning with cigarettes, hot water, or acid
- \* Exposure to environmental extremes (such as very high or low temperature)
- \* Being forced to stand for extended periods of time
- \* Being forced to stare at the sun
- \* Having one's head submerged in water or excrement
- \* Mock execution (for example, having an empty gun fired at one's head)
- \* Threats of violence to loved ones
- \* Being forced to watch or participate in the torture or death of others, including loved ones
- \* Forced nakedness
- \* Not being allowed the use of a toilet
- \* Solitary confinement or overcrowding
- \* Exposure to continuous noise
- \* Sleep deprivation
- \* Being forced to remain with dead bodies
- \* Repeated interrogations conducted at random and unpredictable times

Holtan N, et al. Minn Med 2002;85(5):35-9. Adapted with permission.

Giving Light A book of short stories offers hope of redemption.

In her 2004 book *The Dew Breaker*, a collection of related stories, Edwidge Danticat looks at the life of a "choukèt laroze," a man who tortured others during Haiti's Duvalier dictatorships. The term "dew breaker" is Danticat's own translation of the Creole phrase and could easily have been the dew shaker or the dew stomper, a reference to the way the torturers would often abduct their victims at first light, disrupting the morning dew. The book presents the dew breaker through the eyes of those around him—wife, daughter, and former victims.

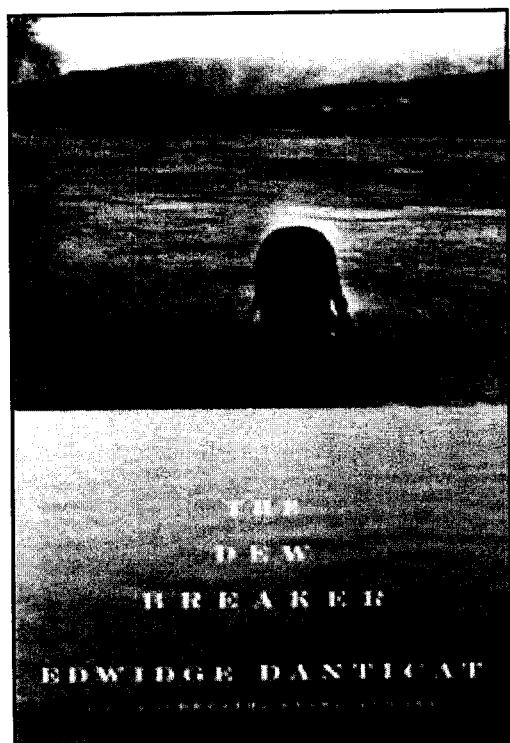


FIGURE. No caption available.

Set primarily in the United States, the stories offer insight into how those who have suffered torture survive and the form that survival takes. The characters in Danticat's book manage their pasts with greater and lesser degrees of success: for some, the threat of encountering a former torturer is very real; he is the barber in the shop on your street. For others, he exists only in the imagination, the result of "chasing fragments of themselves long lost to others." There is a palpable sense that the torture has not ended—in one story, the dew breaker's wife (who had also suffered loss at his hands), having just arrived in America, listens to the radio and hears callers talking "about a Haitian American man named Patrick Dorsimond who had been killed. He had been shot by a police officer in a place called Manhattan." One has the sense that the place names have changed, but the dangers remain.

In a book that swings between "regret and forgiveness," Danticat gives hope. In an e-mail interview, she stated that she believes "silence is a very big part of suffering and sometimes an obstacle to healing." In the story "Night Talkers" Danticat writes of "palannit," night talkers, "those who spoke their nightmares out loud to themselves." With the character of Claude, a Haiti-born son of immigrants who was raised in America but sent "home" after committing patricide, Danticat offers the hope of some redemption—for the afflicted and the afflictors alike. Claude, a palannit, is both a victim and a perpetrator and is "even luckier than he realized, for he was able to speak his nightmares to himself as well as others, in the nighttime as well as in the hours past dawn, when the moon had completely vanished from the sky." Danticat believes telling one's story helps in healing. She noted, "Sometimes just to have people acknowledge what happened to you can be a great help." Perhaps *The Dew Breaker* serves as some acknowledgment for the torture survivors of Haiti, with stories that speak truths, told in the light of day. —Lisa Melhado, associate editor

#### REFERENCES

1. Torture and torture victims. *Fed Regist* 2000;65(32): 14,595–603. [\[Context Link\]](#)
2. Amnesty International. Annual report [introduction]. 2004. <http://www.amnestyusa.org/annualreport/index.html> . [\[Context Link\]](#)
3. Eisenman DP, et al. Survivors of torture in a general medical setting: how often have patients been tortured, and how often is it missed? *West J Med* 2000;172(5):301–4. [\[Context Link\]](#)
4. Jaranson JM, et al. Somali and Oromo refugees: correlates of torture and trauma history. *Am J Public Health* 2004;94(4):591–8. [\[Context Link\]](#)
5. Jacobsen L. Teaching health professionals about torture. *Int Nurs Rev* 1998;45(3):79–80. [\[Context Link\]](#)
6. Human Rights Watch. Summary of international and U.S. law prohibiting torture and other ill-treatment of persons in custody. 2004. [http://hrw.org/english/docs/2004/05/24/usint8614\\_txt.htm](http://hrw.org/english/docs/2004/05/24/usint8614_txt.htm) . [\[Context Link\]](#)
7. World Medical Association. Declaration of Tokyo . 1975. <http://www.wma.net/e/policy/c18.htm> . [\[Context Link\]](#)
8. International Council of Nurses. Torture, death penalty, and participation by nurses in executions. 1998. <http://www.icn.ch/pstorture.htm> . [\[Context Link\]](#)
9. Conroy J. History and method. In: *Unspeakable acts, ordinary people. The dynamics of torture*. New York: Alfred A. Knopf; 2000. p. 27–38. [\[Context Link\]](#)
10. United Nations High Commissioner for Refugees. Convention and protocol relating to the status of refugees. 1996. <http://www.unhcr.ch> . [\[Context Link\]](#)
11. U.S. Office of Refugee Resettlement. Office of Refugee Resettlement (ORR) torture treatment program. 2002. <http://www.acf.dhhs.gov/programs/orr/programs/torturep.htm> . [\[Context Link\]](#)

12. Basoglu M, et al. Torture and mental health. A research overview. In: Gerrity E, et al., editors. The mental health consequences of torture. New York City: Kluwer Academic; 2001. p. 35–62. [\[Context Link\]](#)
13. Jaranson JM, et al. Assessment, diagnosis, and intervention. In: Gerrity E, et al., editors. The mental health consequences of torture. New York City: Kluwer Academic; 2001. p. 249–76. [\[Context Link\]](#)
14. Jaranson J. The science and politics of rehabilitating torture survivors. In: Jaranson J, Popkin M, editors. Caring for victims of torture. Washington, DC: American Psychiatric Press; 1998. p. 15–40. [\[Context Link\]](#)
15. Westermeyer J. Cross-cultural psychiatric assessment. In: Gaw A, editor. Culture, ethnicity, and mental illness. Washington, DC: American Psychiatric Press; 1993. p. 125–44. [\[Context Link\]](#)
16. Basoglu M, Aker T. Cognitive-behavioral treatment of torture survivors seekers: a case study. *Torture* 1996;6(3):61–5. [\[Context Link\]](#)
17. Ortiz D. The survivor's perspective. Voices from the center. In: Gerrity E, et al., editors. The mental health consequences of torture. New York: Kluwer Academic; 2001. p. 13–34. [\[Context Link\]](#)
18. Basoglu M. Prevention of torture and care of survivors. An integrated approach. *JAMA* 1993;270(5):606–11. [\[Context Link\]](#)
19. Cohn J, et al. A study of Chilean refugee children in Denmark. *Lancet* 1985;2(8452):437–8. [\[Context Link\]](#)
20. Conroy J. Victims. In: *Unspeakable acts, ordinary people. The dynamics of torture*. New York: Alfred A. Knopf; 2000. p. 169–83. [\[Context Link\]](#)
21. Brave Heart M. Oyate ptayela: rebuilding the Lakota Nation through addressing historical trauma among Lakota parents. *Journal of Behavior and Social Environment* 1999;2(1/2):109–26. [\[Context Link\]](#)
22. Randall G, Lutz E. Psychological treatment techniques. In: *Serving survivors of torture*. Waldorf, MD: American Association for the Advancement of Science; 1991. p. 117–35. [\[Context Link\]](#)
23. Kennedy P. Working with survivors of torture in Sarajevo with Reiki. *Complement Ther Nurs Midwifery* 2001;7(1):4–7. [\[Context Link\]](#)
24. Mollica RF. Surviving torture. *N Engl J Med* 2004;351(1):5–7. [\[Context Link\]](#)
25. Randall G, Lutz E. Introduction to psychological treatment. In: *Serving survivors of torture*. Waldorf, MD: American Association for the Advancement of Science; 1991. p. 97–116. [\[Context Link\]](#)
26. Laurence R. Part II: The treatment of torture survivors: a review of the literature. *Issues Ment Health Nurs* 1992;13(4):311–20. [\[Context Link\]](#)
27. Temkin E. Nurses and the prevention of war. Public health nurses and the peace movement in World War I. In: Levy B, Sidel V, editors. *War and public health*. New York: Oxford University Press; 1997. p. 350–9. [\[Context Link\]](#)
28. Ortiz D, Davis P. *The blindfold's eye: my journey from torture to truth*. Maryknoll, NY: Orbis; 2002. [\[Context Link\]](#)
29. American Academy of Nursing Expert Panel on Violence policy recommendations for nurses caring



for victims of torture (adopted 2001). *Issues Ment Health Nurs* 2003; 24(6-7):595-7. [**Context Link**]

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**C. Sierra Leone: Childhood – A Casualty of Conflict (Amnesty International),  
31 August 2000**

**Previous**

**For the complete document, including photographs and appendices please refer to the pdf attachment.**

# SIERRA LEONE

## Childhood - a casualty of conflict

### Introduction

More than 5,000 children under the age of 18, both boys and girls and some as young as five, have fought as combatants in Sierra Leone's internal armed conflict. Children have been specifically singled out for recruitment by both the armed opposition and forces fighting in support of the government. Most of the children fighting with rebel forces have been abducted from their homes and families and forced to fight. Many were separated from their families at a very young age. Victims themselves, they have also been perpetrators of human rights abuses, sometimes against members of their own families and communities. Many have been forced to kill and mutilate under the influence of drugs, alcohol or simply because of fear. Former child combatants often say that they do not know why Sierra Leoneans are killing Sierra Leoneans.

A further 5,000 children, again both boys and girls, have been associated with rebel forces although not directly deployed in combat; they have been used to carry goods, cook or collect firewood, and girls have been raped and forced into sexual slavery. Some girls are forced to "serve" many male combatants.(1)

These are the figures provided by the United Nations Children's Fund (UNICEF) but they are estimates; the real figures may be much higher. The Special Representative of the United Nations (UN) Secretary-General for Children and Armed Conflict, after a visit to Sierra Leone, said on 9 September 1999 that *'more than 10,000 children have been serving as child soldiers in various fighting groups'*.

On 7 July 1999 in Lomé, Togo, the government of Sierra Leone and the armed opposition Revolutionary United Front (RUF) signed a peace agreement which was to end Sierra Leone's eight-year conflict. The difficult task of disarming and demobilizing very large numbers of child combatants and helping them to return to a normal life with their families and communities began.

While some progress was being made towards securing the release, disarmament and demobilization of child combatants following the signing of the peace agreement, further efforts have since been curtailed. The political and security situation in Sierra Leone deteriorated in early May 2000 with the capture of some 500 UN peace-keeping troops by rebel forces and a resumption of hostilities. The recruitment and use of children as combatants by both rebel forces and government-allied forces are continuing. This is among the most distressing features of a conflict which has also been characterized by systematic and widespread deliberate and arbitrary killing, amputation of limbs and mutilation, rape and other forms of sexual violence.(2)

In this report Amnesty International describes the violation of the most fundamental rights of the children of Sierra Leone. Much of the information included comes from the children themselves who were interviewed by Amnesty International representatives during visits to Sierra Leone in March, June and July 2000.

The scale of the problem of child combatants in Sierra Leone is well known and has been recognized, including by the UN Secretary-General, his Special Representative for Children and Armed Conflict, UNICEF, the UN Committee on the Rights of the Child, the government of Sierra Leone and non-governmental organizations, both national and international. There is a wealth of international and regional standards, resolutions and statements on the protection of children in situations of armed conflict. What is now urgent is to give substance to the repeated commitments to end the recruitment and use of children as combatants, by whatever side.

Amnesty International is making a series of recommendations to the government of Sierra Leone, the leaders of RUF forces and the international community aimed at finally ending the use of child soldiers in Sierra Leone. These include:

- the highest priority should be given to resuming the disarmament, demobilization and reintegration of child combatants, and prompt and effective measures should be taken to ensure that no child under the age of 18 is recruited for military service, including by passing legislation raising the minimum age for military recruitment to 18;
- all children held by RUF forces, either used as combatants or in any way associated with fighting forces, should be released immediately and RUF forces should immediately cease forcible or voluntary recruitment and use of children under the age of 18;
- in all efforts by the international community to resolve the political and security crisis in Sierra Leone, the needs of children affected by the internal armed conflict, including child combatants, should be given the highest priority and concrete steps should be taken to implement commitments made to end the recruitment and use of child combatants in Sierra Leone;

- those responsible for grave breaches of international human rights law and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice.

## The use of child combatants in the internal armed conflict

Children have fought with the various forces involved in Sierra Leone's internal armed conflict which began in 1991. These forces include the RUF, the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army and the Civil Defence Forces (CDF). The AFRC came to power following the military coup on 25 May 1997 which overthrew the government of President Ahmad Tejan Kabbah elected in 1996. The AFRC joined forces with the RUF after coming to power and remained its ally after the AFRC was forced from power in February 1998 by forces deployed in Sierra Leone by the Economic Community of West African States (ECOWAS), known as ECOMOG. With the signing of the peace agreement in July 1999, the AFRC allied itself to the government of President Kabbah but some of its forces continued to engage in hostilities against government-allied forces. Rebel forces who remain in control of parts of the north and east of the country continue to forcibly recruit and use child soldiers. Previously disarmed and demobilized members of the AFRC and those members of the Sierra Leone Army who had remained loyal to the government, including children under the age of 18, have again been recruited and rearmed to fight on behalf of the government since May 2000. Large numbers of children have also been recruited and used in combat by the CDF, the civilian militia based on societies of traditional hunters, such as the *kamajors*, which support the government of President Kabbah.

The involvement of children in conflict has devastating effects on their physical and mental integrity. There have been higher casualty rates among children because of their inexperience, fearlessness and lack of training. Children are considered as particularly useful because their size and agility means that they may be sent on particularly hazardous assignments. Frequently ill-treated or even killed by the commanders, they have no protectors. Adult combatants who commit human rights abuses, including crimes against humanity and war crimes, involve children in those crimes. In addition to the obvious risks of death or serious injury in combat, children suffer disproportionately from the general rigours of military life, especially in the bush, and are particularly vulnerable to disease and malnutrition. As for the severe psychological consequences of active participation in hostilities, with children witnessing and at times also committing atrocities, the full extent of the impact on child combatants as well as society as a whole may only become apparent over a long period.

## Former child combatants tell their stories

Those children who have been released or have escaped and who have been disarmed and demobilized provide horrifying accounts of how the conflict has affected them. The names of the children whose testimonies are included have been changed in order to protect their identities. Most were interviewed by Amnesty International representatives during June and July 2000.

Child combatants live in constant fear of being beaten and killed. Many former child combatants describe being threatened, intimidated and severely beaten; others recount the killing of their friends and companions. Former child combatants describe the killings and mutilations of civilians which they carried out while fighting. If they refused, they risked being beaten or killed. Peter, a 12-year-old former child combatant, said: "*When I was killing, I felt like it wasn't me doing these things. I had to because the rebels threatened to kill me.*"

### Former child combatants fighting with RUF

Ibrahim is now aged 16 and living at a centre for former child combatants at an internally displaced people's camp at Waterloo, 20 kilometres east of Freetown. He was captured by the RUF in 1992 in Kono District, Eastern Province, and from there was transferred to the rebel stronghold of Kailahun District, also in Eastern Province. He was taught how to use weapons, how to advance and attack the enemy and how to ambush. He described how before attacks, each combatant, including child combatants, was given cocaine and marijuana: "*After sniffing cocaine, I was not afraid of anything. I became bloody.*"

Ibrahim told Amnesty International on 19 June 2000 that when the RUF forces with whom he fought heard that RUF leader Foday Sankoh was going to be tried in 1998: "*We were ordered to kill any civilian that we came across. Any fighter or children suspected of being reluctant to do the killings were severely beaten. We were asked to advance and to do everything possible to terrorize the civilians. It was during this period that people's hands and limbs were cut off, in Kono, Masingbi, Matatoka, Magburaka and Makeni. During that time, one of the children asked the commander the reasons for the killings. He said that the civilians were supporting President Kabbah's government. Sheriff Kabia, who was 17 and known as 'Crazy Jungle', was killed because he asked this question.*" Sheriff Kabia was reported to have been killed in November 1998. Ibrahim also described the death of Mamadu Kamara, aged 14, who was killed because he refused to cut off the hand of someone from his own village.

Abdul, now aged 17, was abducted by the RUF in 1997 during an ambush in Kenema District, Eastern Province. He told Amnesty International on 21 July 2000 that he was taken to an RUF training camp, known as Camp Lion, near Pendembu in Kailahun District where he was trained by both Sierra Leoneans and Liberians. He was taught to use a variety of weapons, including AK47 and AK58 rifles, which he said came from Liberia. "*After the Lomé peace accord, we thought that was the end of the whole war. We were waiting to disarm; there was no fighting. Instead we all went to Tongo Field to mine. Most rebels did that.*" Abdul was then ordered to go to Lunsar, Port Loko District: "*We didn't even reach the front line when we met some wounded colleagues. I wanted to surrender but I*

*was afraid.*" When he gave himself up to Sierra Leone Army forces, his arms were tied tightly behind his back; rope marks on both arms were still visible. He was first taken to Masiaka, some 50 kilometres east of Freetown, where he was hit on the head with a pistol by a soldier and then transferred to Cockerill military headquarters in Freetown. *"They threatened to kill me. For the first week I was treated badly but then I was given food and water and no one treated me badly. For the first two weeks I was not allowed out of the cell."* He remained there for more than three weeks before being transferred to an interim care centre in Freetown. *"I want to go back to school but here in Freetown, not in the provinces. I am scared that I'll get taken back to the front line."*

David, now aged 14, from Bumbuna, Tonkolili District, Northern Province, was abducted in 1996 by the RUF when they attacked Bumbuna. He is now at a centre established to care for former child combatants, known as an interim care centre, run by an international non-governmental organization, in Freetown. When interviewed by Amnesty International on 12 July 2000, he said that after his abduction he was taken first to Kabala, Koinadugu District, Northern Province, and then to Bunumbu in Kailahun District, an RUF stronghold. There he, together with another 40 children, was trained to fight at Camp Lion. *"I had to go through the training and learn to fight, otherwise the RUF people would beat me or kill me."* Among those killed by the RUF during the training was a boy, aged about 11, with whom David had become friends. He was beaten to death because he refused to continue training. He had complained of being tired - the training was difficult and he was exhausted. He was beaten in front of more than 30 other children and his body was thrown into the bush. Another child, aged 14, was also beaten and killed.

David described how, even under the influence of marijuana and alcohol, he was still afraid to fight, but he did not tell anyone for fear of being killed. David remained with rebel forces for three years until surrendering to forces of the UN Mission in Sierra Leone (UNAMSIL) at Makeni, Bombali District, Northern Province, after the peace agreement was signed in July 1999. Now at the interim care centre, he said: *"I want to become a doctor now and go back to school to learn how to cure people."*

Many former child combatants with rebel forces have described how they were forced to drink alcohol and take drugs and the effect that it had on them. Among the drugs used were marijuana, amphetamines, commonly referred to as "blue boats", and cocaine. When child combatants refused to take drugs they were beaten and, in some cases, killed.

Komba, now aged 15, was captured by the RUF in 1997 in Binkolo, Bombali, District. Now at the centre for former child combatants at Waterloo, he told Amnesty International on 20 June 2000 that he was among rebel forces who attacked Freetown in January 1999: *"My legs were cut with blades and cocaine was rubbed in the wounds. Afterwards, I felt like a big person. I saw the other people like chickens and rats. I wanted to kill them."*

When interviewed by Amnesty International on 20 June 2000, Gibril, aged 11, said: *"Before battles, I was given white powder which was mixed with rice. It made me brave, it made me think that I could do anything."*

Fifteen child combatants, including at least two girls, were among some 2,500 Sierra Leonean refugees who fled into Gueckédou in Guinea during the first two weeks of August 2000 to escape intensified fighting and bombing by government forces of rebel-held areas in Eastern Province. All but one had been abducted by rebel forces and forced to fight for periods of up to seven years. According to the UN High Commissioner for Refugees (UNHCR), all the children said that they had been heavily drugged with cocaine and they acknowledged that they had been extremely brutal. They were separated from other refugees because they feared that victims of the atrocities which they had committed would recognize them.

### **Former child combatants fighting with the AFRC**

After being removed from power in February 1998 by ECOMOG forces acting in support of President Kabbah, the AFRC, together with the RUF, wreaked a campaign of terror against civilians, particularly in Northern Province. From April 1998 reports emerged of widespread killings, amputations and abductions in villages in Northern Province.

When interviewed on 19 June 2000 by Amnesty International, Sayo, now aged 14, said that he was abducted by AFRC forces in 1998 in Makali, Tonkolili District. He was trained in different places, including Koinadugu District. He described how his skin was cut in different places, including near his eyes, and cocaine put in the wounds. *"When I go to the battle fields, I smoke enough. That's why I become unafraid of everything. When you refuse to take drugs, it's called technical sabotage and you are killed."* After the peace agreement was signed in July 1999 Sayo was freed and taken to a centre for former child combatants run by a non-governmental organization, CARITAS-Makeni, in Kabala. He is now at the centre for former child combatants at Waterloo.

Hassan, now aged 15, from Makeni, told Amnesty International on 21 July 2000 at a centre for former child combatants in Freetown that he was abducted with four of his cousins by the AFRC in 1998 when he was aged 13. He was trained in a camp near Kabala where he was given an AK 47 rifle. He claimed that there were several hundred other young boys in the camp. The training lasted three months. He had to learn how to dismantle a weapon, how to use a rocket propelled grenade (RPG), how to attack, how to undertake guard duty and how to parade. He also said that he had to parade for AFRC leaders, including Johnny Paul Koroma, now head of the Commission for the Consolidation of Peace, established under the July 1999 peace agreement, and Brigadier, now Colonel, Gabriel Mani, who was appointed in July 2000 as Director of Army Training.

Hassan spent over a year with the AFRC in Kono District, Eastern Province. Following the signing of the peace agreement in July 1999 he remained with the AFRC in the Occra Hills, some 40 kilometres east of Freetown, the stronghold of a faction of the AFRC known as the "West Side Boys" who had not disarmed after the peace agreement. In late June 2000 Hassan travelled to Freetown to purchase drinks for the "West Side Boys". He was not armed and he travelled in a public transport vehicle. At a checkpoint he was recognized as

a West Side Boy by members of the Sierra Leone Army and the *kamajors* and ordered to get out of the vehicle. His shoes and trousers were removed but, initially, he was not otherwise ill-treated. He was taken to Benguema military training camp, 20 kilometres east of Freetown, and the following day to Cockerill military headquarters in Freetown. He was interrogated about a recent attack on the town of Masiaka. One soldier, however, beat him severely on his back; three weeks later, in July 2000, deep scars were still visible. The beating was stopped by a more senior officer.

Hassan said: *"At first, I loved being in the bush. I could get money and other things, including vehicles, for free. But then I got tired. Now I want to go home."*

When interviewed on 24 July 2000 John, now aged 15, from Mokanji, Moyamba District, Southern Province, did not remember when he had been abducted by the AFRC and did not know what had happened to his family. He was threatened that he would be killed if he did not go with the AFRC and was taken to Makeni where he was trained how to use weapons and how to fight the CDF and ECOMOG. John said that he was told not to kill civilians and that civilians were killed in the cross-fire. He was also instructed not to loot property but said that many AFRC members did engage in looting. *"I was not happy living in the bush but I had no way to escape. I asked to leave and was told 'go if you can' but I then saw children being killed - many of them - when they tried to escape to go home. I was afraid of fighting but I was given 'blue boats'. After that I felt like I could do anything. I never refused to take drugs."*

John recalled that children were punished if they refused to obey orders: *"I was punished after I was asked to be part of an advance team to attack Koinadugu. I was not feeling well; I was feeling sick and had a stomach ache. I said that I could not go and fight. The commander ordered other small boys to beat me. After I was beaten a doctor who had been captured helped me."*

Isatu, a girl now aged 17, was abducted by AFRC forces from Fadugu, Koinadugu District, in 1998. She told Amnesty International on 24 July 2000 at a centre for former child combatants: *"I did not want to go; I was forced to go. They killed a lot of women who refused to go with them."* She was forced to become the sexual partner of the combatant who captured her and is now the mother of their three-month-old baby: *"When they capture young girls, you belong to the soldier who captured you. I was 'married' to him."*

Isatu was trained in a base near Kabala to use weapons, including a bayonet, gun and knife, and fought in the area around Fadugu and Makeni. She admitted that she had cut off the hands of children and adults, and set fire to houses with civilians locked inside. *"There is a law of the AFRC that forces you to kill; if you refuse to, you yourself are killed."*

### Former child combatants fighting with the CDF

Child combatants recruited by the CDF have also recounted their experiences. The parents of 12-year-old Brima, now at the centre for former child combatants at Waterloo, gave permission to the CDF to use him as a child combatant in 1998. He continued to live at his home but was active with the CDF in areas around Masiaka, Port Loko and Yele. He was trained to fight by CDF "initiators", those who admit members into the societies of traditional hunters. Brima told Amnesty International on 20 June 2000 that when children disobeyed orders they were beaten unless their parents paid a fine. Brima recalled: *"I was beaten because I became separated from a CDF patrol."*

Brima recounted that when a rebel is caught, his arms are tied up behind his back. The captive is then interrogated and stabbed to death. *"I saw four executions."*

Mohamed, also aged 12, from Port Loko, Port Loko District, Northern Province, was recruited by the CDF in 1998. His parents were not informed about the recruitment but they did nothing to prevent it because of the status attached to membership of the society of traditional hunters, such as the *kamajors*, described by Mohamed as *"the supremacy of the society"*. In addition to carrying water and machetes for the CDF, he escorted captured rebels to the Sierra Leone Army. He also described to Amnesty International on 20 June 2000 how the CDF executed rebels they had captured or those suspected of being rebels: *"I saw three captured rebels being killed; their heads were cut off. The children had to bring the heads to the SLA [Sierra Leone Army] headquarters to show that the CDF were effective."*

### Rehabilitating child combatants

Until the resumption of hostilities in May 2000 UNAMSIL, including its human rights section, played an important role in negotiating the release of children held by rebel forces and providing logistical support and military escorts to ensure their safe transfer to interim care centres. It worked with a number of non-governmental organizations, both national and international, who have been active in trying to secure the release of children and to provide the assistance they need. In March 2000 UNICEF and non-governmental organizations were supporting more than 700 children in interim care centres; about 80 per cent of these were demobilized child combatants.

Following the July 1999 peace agreement and before the resumption of hostilities in May 2000, specific procedures had been adopted for child combatants. When children presented themselves to a disarmament, demobilization and reintegration reception centre - sometimes simply a table in the middle of the road - those who were not combatants were handed over to child protection agencies and taken to an interim care centre. If, after questioning, it was established that they were combatants, they were transferred to the children's sections of disarmament, demobilization and reintegration camps. For those who had fought with the RUF, the AFRC or the former Sierra Leone Army this program lasted for five weeks; for those with the CDF a shorter program was provided because normally the children had not been separated from their families and communities.

At interim care centres former child combatants are provided with medical treatment, food and clothing, psycho-social rehabilitation, education and recreation. Some of the older children, especially those who had spent months or years with rebel forces, have bullet wounds or other injuries. Malnutrition, respiratory and skin infections and other ailments are common, as are sexually transmitted diseases, including HIV/AIDS. Some still suffer the effects of narcotic drugs.

When Amnesty International met former child combatants at the centre for former child combatants at Waterloo on 25 March 2000, a boy aged 14 who had been abducted by AFRC forces in 1998 said: "*I want to go to school and learn so that I can forget the old times.*" Another former child combatant interviewed at Waterloo on 19 June 2000 said: "*We want to go back to school; we don't want to go back to the bush.*"

The psychological effects of the conflict on children have often been severe: many have killed, mutilated or raped or have witnessed such atrocities. During the rebel incursion into Freetown in January 1999 - when at least 2,000 civilians were killed, more than 500 people had limbs severed, and rape of girls and women was systematic - it was estimated that some 10 per cent of rebel combatants were children. Often under the influence of drugs, many of them committed atrocities. During the first few weeks after they are disarmed and demobilized, former child combatants are reported to be often aggressive and violent, to show other behavioural problems, to suffer nightmares, alienation, outbursts of anger and an inability to interact socially.

In a report published in January 2000, the international humanitarian organization *Médecins sans Frontières* (MSF-Holland) said that: "*The psychological impact of actually witnessing horrific events imposes a serious psychological stress. Deliberately or not, witnessing at least once events such as torture, execution, (attempted) amputations, people being burnt in their houses and public rape often results in traumatic stress or even post-traumatic stress disorder.*"(3)

At an interim care centre in Lungi, former child combatants have been encouraged to make drawings of their experiences as child combatants. Many have depicted horrific scenes of the mutilation, rape and killing in which they have been involved.

After considering Sierra Leone's initial report under the UN Convention on the Rights of the Child in January 2000, the UN Committee on the Rights of the Child expressed concern that the government had insufficient capacity to provide psycho-social assistance to the many children who have suffered forms of psychological trauma. The Committee urged the government to make every effort to strengthen available psycho-social assistance and to recruit more mental health workers, recommending in addition that the government seek international assistance in this area.

After undergoing the demobilization and rehabilitation process, efforts are made to reunite former child combatants with their families. Child protection agencies have developed programs for family tracing and reunification, often with success. In some cases, however, former child combatants, especially the younger ones, do not know their real names and have lost all knowledge of what a family is. One boy now aged 16, who was abducted by the RUF in 1992, said: "*The commander told me when I was captured: 'Your father is gone. Now I am your father.'*" Another, aged 15, who was abducted in 1997 said: "*After you are captured you cannot think about your family; that is out. Sometimes, when I was by myself, I would think about them. But when you are captured you have to change or you are a dead man.*"

Many former child combatants have been transferred to the province from which they originally came, if this has been possible, in order to increase the possibility of tracing their families. In other cases, however, their parents have been killed or displaced. Where their families cannot be traced, the children are placed temporarily with foster families. Significant efforts have been made to sensitize communities to the plight of former child combatants and to promote reconciliation. In some cases, however, former child combatants have been rejected by their families and communities because of the atrocities committed by rebel forces during the conflict. One 16-year-old former child combatant said: "*I don't want to go back to my village because I burnt all the houses there. I don't know what the people would do, but they'd harm me. I don't think I'll ever be accepted in my village.*"

Girls who have been abducted and forcibly recruited often face specific problems.

When an Amnesty International delegation visited Sierra Leone in March 2000, it identified that the process of disarmament, demobilization and reintegration of former combatants appeared often not to provide any real opportunity to those girls and women who had been abducted by rebel forces and forced to become their sexual partners to free themselves from former combatants when they reported for disarmament and demobilization. The Fourth Report of the UN Secretary-General on UNAMSIL of 19 May 2000 recognized "*the need to protect dependants of ex-combatants, the majority of whom are women and children*" and that "*the majority of 'wives' of the combatants are in fact abductees and, if not interviewed separately from their 'husbands', would most likely not feel free to express their wish to return to their original families.*"(4)

Effective provision needs to be made for those girls and women, many of whom are pregnant or have young children, to leave former combatants, if they wish. This would require: firstly, the opportunity to indicate privately to UN personnel their desire to leave the men who abducted and sexually abused them; secondly, support to enable them to receive all necessary medical and psycho-social care; and thirdly, support either to return to their families where this is possible or to re-establish their lives together with their children.

In Resolution 1314 (2000) on children and armed conflict of 11 August 2000 the UN Security Council underlined "*the importance of giving consideration to the special needs and particular vulnerabilities of girls affected by armed conflict, including, inter alia, those heading households, orphaned, sexually exploited and used as combatants*" and urged "*that their human rights, protection and welfare be incorporated in the development of policies and programmes, including those for prevention, disarmament, demobilization and reintegration.*"

## May 2000 - children again forced into conflict

*"A whole generation of children has already been emotionally traumatized and physically scarred. They'd been told that peace had finally arrived. Now what are we supposed to tell them?" - Johanna van Gerpen, UNICEF representative in Sierra Leone, 10 May 2000.*

After the signing of a peace agreement between the government and the RUF in July 1999, several hundred children were released by rebel forces; by the end of 1999 some 800 children, many of them combatants, had been handed over to UNICEF and other child protection agencies. During the first months of 2000 there was a significant increase in the release of children, most of them combatants, by AFRC forces from the Occra Hills to the east of Freetown and from Kabala, Northern Province. By the end of April 2000, some 1,700 child combatants, of an estimated total of 5,000, had been absorbed into the disarmament, demobilization and reintegration program. According to estimates by UNICEF, about 800 of them had been reunited with their families or placed in foster care, or had run away, leaving 900 in interim care centres. Several thousand children, however, remained in the hands of rebel forces, particularly in Northern Province.

When the political and security situation in Sierra Leone deteriorated seriously at the beginning of May 2000, fears of an imminent attack on Freetown by rebel forces intensified and hostilities between RUF forces and forces of the Sierra Leone Army, the CDF and UNAMSIL troops were reported close to the capital and in Port Loko District.

Moves to secure the release of children still held by rebel forces halted. Former child combatants in interim care centres in areas where rebel forces were active again became vulnerable to being abducted and forcibly recruited by rebel forces. UNICEF and the child protection agencies with which it works have tried to ensure adequate protection for these children.

In his Fourth Report on UNAMSIL to the UN Security Council on 19 May 2000, the UN Secretary-General cited preliminary reports which suggested that child combatants were being used extensively as hostilities resumed. UNAMSIL human rights officers who visited Masiaka on 15 May 2000 observed several child combatants, mostly boys, with the CDF, the AFRC and former Sierra Leone Army and the reconstituted Sierra Leone Army. Some 25 per cent of the combatants observed were under 18 and some freely admitted that they were between 7 and 14. Almost all of them were armed. Other reports indicated that RUF forces were using a similar proportion of child combatants at the front line. In his subsequent report to the UN Security Council on 31 July 2000, the Secretary-General reported that both the RUF and forces fighting for the government continued to use children in combat.<sup>(5)</sup> He expressed deep concern about continuing human rights abuses, including the forced recruitment of children, and urged *"all fighting forces to immediately release all child combatants among their forces and to cease the recruitment of children as combatants"*.

### Continuing recruitment of children by the RUF

Since May 2000 RUF forces have continued to abduct and forcibly recruit children as combatants, some of whom had previously been demobilized. While some of the children recruited by both rebel and government-allied forces since May 2000 were forcibly recruited, usually after being abducted, others were reported to have volunteered to join the RUF. It appears, however, that in many cases these children had little option but to do so. Reports from Kambia District, Northern Province, during May 2000 described RUF forces going from village to village demanding a quota of men and boys, most of whom were forced to join under duress. Local traditional rulers, known as Paramount Chiefs, were ordered to provide a certain number of recruits and families were forced to hand over children, including those aged under 18. For example, in Madina Junction, Kambia District, 300 men and boys were demanded. Similar reports have been received from the towns of Kambia and Kamakwie. This practice explained the comparatively high number of young men and boys, without their families, who fled across the border into Forécariah region, Guinea, during May 2000. Reports of forcible recruitment were also received from Mange in Port Loko District.

In Makeni, when the RUF first confronted UNAMSIL troops in early May 2000, children were pressed by RUF forces by threats and intimidation into joining them. RUF commanders positioned vehicles at the entrance of an interim care centre, run by CARITAS-Makeni, and repeatedly coaxed the older boys to rejoin them, through enticement and implicit threat. Some of the children were told by RUF forces that their families had been traced and that the RUF would help them return to their homes. It was also reported that the RUF had threatened to kill all those in the interim care centre if the children did not rejoin the RUF. Staff at the centre believed that up to 30 boys aged from 14 to 17 rejoined the RUF; other estimates put the number of those who rejoined the RUF at 40 or as many as 50. It appeared that shortage of food at the centre, which had been looted by rebel forces, was also a factor influencing the children's return to rebel forces. The centre had been looted on 2 May 2000 by rebel forces; some of the older boys in the interim care centre had tried to prevent the looting and one of the adult carers, a woman, had been beaten. The rebels came the following day and again looted the centre.

For fear of further attack, on 23 May 2000, 83 children from the centre - 73 boys and nine girls, most aged between 6 and 12 years - and 27 adult carers fled the centre for Freetown. On their arduous three-day trek their remaining possessions, including food and money, were stolen by RUF combatants. When they arrived in Petifu, Tonkolili District, some of the group, both children and adults, were beaten by members of the CDF. The children finally arrived safely in Freetown on 26 May 2000 and were taken to the interim care centre at Lungi.

One former child combatant, Francis, now aged 16 who had been abducted in 1998, described to Amnesty International on 15 July 2000 at the interim care centre in Lungi how RUF forces had tried to lure children back into their ranks from an interim care centre in Lunsar, Port Loko District: *"by then the rebels had moved from Makeni to Lunsar. They came to our camp and asked some children to join them again and we refused. We have rights to live and play. They encouraged us to join them. We told the manager of the centre to*



*move us. At that time there were no vehicles; even the NGO's vehicle was not around. We walked along the road to Rogberi Junction where we met the rebels. They told us to return to our camp. We knew that they were killing people around. After that they said, please, come and join us or we are going to kill you people. After that we fled in the bush."*

On 31 May 2000 RUF forces were reported to have killed two boys and a young man at the village of Maforay, near Port Loko, after they refused to join them. On 15 June 2000, a farmer from a village near Magbile, Port Loko District, between Masiaka and Rogberi Junction, described to Amnesty International the killing of his sons by RUF forces on 11 June 2000: "My four sons, aged 11, 21, 23 and 25, were building a new hut when the rebels asked them to join them. They refused and the rebels shot and killed them." His three eldest sons were all farmers, married with children; his youngest son worked on his father's farm.

#### **Continuing recruitment of children by government-allied forces**

Government-allied forces have also continued to recruit children and use them in combat. Some of the child combatants who had been disarmed and demobilized after the peace agreement were again recruited to fight against the RUF. Government-allied forces comprise a loose alliance of the Sierra Leone Army, the AFRC and the CDF. Although in theory these various forces are under the command of the Chief of Defence Staff, in practice it appears that chain-of-command control is diffuse and often unclear and that, in the confused and unstable situation which prevails, it is unlikely that senior military personnel of the Sierra Leone Army exert effective control over all forces fighting on behalf of the government.

When an Amnesty International delegation met the Deputy Minister of Defence, Chief Samuel Hinga Norman, who is also the National Coordinator of the CDF, in Freetown on 25 May 2000, he denied that the CDF recruited children or "initiated" them into the societies of traditional hunters. He said that the children with CDF forces had been rescued or captured from rebel forces and that they were handed over to child protection agencies. Chief Hinga Norman has publicly announced that child combatants will be demobilized from government and government-allied forces. In mid-July 2000 he held a meeting in Bo, Southern Province, with CDF leaders and "initiators". He instructed that no further children were to be "initiated" into the CDF. It is not clear, however, to what extent this instruction is being heeded. While it may reduce the number of children newly admitted into the CDF, it does not resolve the problem of those already with CDF forces.

A senior member of the CDF in Kenema, Eastern Province, told Amnesty International on 27 July 2000 that, although he personally opposed the use of children, he acknowledged that it was normal practice within the CDF. He was in the presence of two boys who appeared to be under 18 and who were both armed. He claimed that, before the peace agreement, there were some 600 children in the CDF forces around Kenema but that they were all subsequently demobilized and that there was no further recruitment of children.

On 12 June 2000 in Masiaka, an area where hostilities were continuing, much publicity was given to the apparent demobilization of 135 child combatants with government-allied forces, in particular the CDF. It subsequently transpired, however, that only 13 of these children were serving as combatants, nine with the CDF and four with the AFRC. It appeared that children and their families were attracted by the potential assistance and facilities provided to former child combatants, including food and education, as well as the opportunity to remove the children to safety from an area close to the front line. The children who were not former child combatants, and who had been separated from their families, were subsequently returned to their homes.

According to some reports, recruitment of children by the CDF is continuing in Bo and Moyamba Districts in Southern Province. It is often difficult, however, to distinguish between "initiation" into the societies of traditional hunters and recruitment to fight. Child protection agencies report that recruitment of children, including those who had previously been demobilized, is continuing. According to reports which remain unconfirmed, villages in Southern Province are expected to provide a certain number of children to the CDF. In some areas the CDF appear to be no longer using children so openly to guard checkpoints along major roads in Southern Province; children, some of them armed, have been seen close to checkpoints but hidden in the bush. In late May 2000 two children with the CDF aged about 14 or 15 were observed in Moyamba close to a checkpoint. In other areas, however, an increase in the number of children guarding checkpoints has been observed.

## **Arming the children**

#### **Military assistance to rebel forces**

Rebel forces in Sierra Leone have received and continue to receive significant military assistance, including arms and ammunition, despite a UN embargo on the provision of such assistance. UN Security Council Resolution 1132 (1997) of 8 October 1997 imposed an arms embargo on Sierra Leone following the military coup of 25 May 1997 which brought the AFRC to power. After the government of President Kabbah was restored to power in March 1998, UN Security Council Resolution 1171 (1998) of 5 June 1998 lifted the arms embargo on the government of Sierra Leone but prohibited the sale and supply of arms and related *matériel* to non-governmental forces in Sierra Leone.

In view of the appalling level of human rights abuses against civilians perpetrated by rebel forces, military assistance to rebel forces can be assumed to have contributed, and to continue to contribute, to continuing violations of international human rights and humanitarian law. Among these violations are the recruitment and use of child combatants. Arms and ammunition reaching rebel forces inevitably fall into the hands of the children abducted and forcibly recruited by rebel forces. Traffic in small arms and light weapons clearly facilitates and encourages the use of child combatants. Amnesty International is calling for the cessation of all military assistance to rebel forces in Sierra Leone, including the provision of arms, ammunition, combatants and training.

The government of Liberia has been consistently cited as violating the embargo on military assistance to rebel forces in Sierra Leone. Following a visit to Sierra Leone and Liberia in December 1998 the Chairman of the UN Security Council sanctions committee on Sierra Leone said that arms and ammunition were crossing into Sierra Leone from neighbouring countries, including Liberia, in violation of UN Security Council Resolution 1171 (1998).(6) At the time of the rebel incursion into Freetown in January 1999, the governments of both the United Kingdom (UK) and the United States of America (USA) unambiguously accused the government of Liberia of supporting rebel forces. Burkina Faso has also been reported to have acted as a transit route for military assistance to rebel forces in Sierra Leone. Some of this assistance has originated from countries in the former Soviet bloc and has been facilitated by the activities of international arms brokers and shipping agents, some of them based in Europe.

In April 1999 the commander of ECOMOG in Sierra Leone accused Liberia and Burkina Faso of transferring arms to rebel forces. He asserted that a Ukrainian-registered cargo plane had delivered arms and ammunition to Ouagadougou, the capital of Burkina Faso, for on-shipment to RUF forces through Liberia.(7) A Gibraltar-based company was reported to have organized the arms shipment to Burkina Faso, using a UK-based air company.

These accusations against Liberia and Burkina Faso have continued and intensified, especially as the international community has focused increasing attention on the role of the illicit trade in diamonds from rebel-held areas of Sierra Leone in financing the provision of military assistance to rebel forces.(8)

On 5 July 2000 the UN Security Council passed Resolution 1306 (2000) which imposed an embargo on all diamond exports from Sierra Leone for 18 months until the government of Sierra Leone can establish a proper certification system for diamonds and regain full access to those areas of the country - notably in Eastern Province and in particular Kono District and Tongo Field - where RUF forces remain in control. Liberia was specifically referred to as a transit route for diamonds from rebel-held areas; the Security Council expressed its concern "*at the role played by the illicit trade in diamonds in fuelling the conflict in Sierra Leone, and at reports that such diamonds transit neighbouring countries, including the territory of Liberia*". The resolution decided that "*all States shall take the necessary measures to prohibit the direct or indirect import of all rough diamonds from Sierra Leone to their territory*".

The international diamond industry has meanwhile responded to growing international pressure. The International Diamond Manufacturers' Association and the World Federation of Diamond Bourses, meeting in Antwerp, Belgium, from 17 to 19 July 2000, agreed that they will not trade in diamonds from rebel-held areas of Sierra Leone. The industry has sought further legal action from governments, such as import control and certification systems.

In line with the provisions of Resolution 1306 (2000), on 31 July and 1 August 2000 the UN Security Council sanctions committee on Sierra Leone held a public meeting, which included representatives of the international diamond trade, governments and non-governmental organizations, to debate the role of the illicit trade in diamonds from rebel-held areas in procuring military assistance for rebel forces.

Further allegations were levelled against Liberia and Burkina Faso, notably by representatives of the UK and USA governments. Ambassador Jeremy Greenstock of the UK said that: "*a variety of reliable sources show that President [Charles] Taylor [of Liberia] is orchestrating the activities of the RUF. He is giving direct military support, encouraging attacks against UNAMSIL and Sierra Leone government forces, providing strategic direction, influencing decisions on leadership and on command and control. Moreover, he is using the RUF to retain control of Sierra Leone's diamonds reserves*". Ambassador Richard Holbrooke of the USA said that: "*there was reason to believe that RUF leaders and the President of Liberia have taken increasingly large commissions for each of themselves, and particularly for Liberian President Taylor for his services as a facilitator of diamond sales and related arms transfers*" and added that the government of Burkina Faso was also involved providing arms to the RUF.

The governments of both Liberia and Burkina Faso vigorously denied these allegations and called on the international community to conduct independent investigations in their countries in order to substantiate these claims.

The UN Security Council sanctions committee on Sierra Leone established a panel of five experts to continue to investigate the link between the diamond trade and the conflict in Sierra Leone, including the alleged implication of the governments of Liberia and Burkina Faso. The panel of experts is expected to report on its findings by the end of October 2000.

In Resolution 1314 (2000) on children and armed conflict, the UN Security Council expressed its grave concern at: "*the linkages between the illicit trade in natural resources and armed conflict, as well as the linkages between illicit trafficking in small arms and light weapons and armed conflict, which can prolong armed conflict and intensify its impact on children, and, in this regard, expresses its intention to consider taking appropriate steps, in accordance with the Charter of the United Nations*".

#### **Military assistance to government forces**

Since May 2000 combatants below the age of 18 have continued to be recruited by the Sierra Leone Army and other government-allied forces, including the AFRC and the CDF.

While recognizing the responsibility of the Sierra Leone government to maintain security and protect its population and territory, Amnesty International opposes the provision of assistance to armed forces where it can be reasonably assumed to contribute to the recruitment of children under the age of 18 by the armed forces or other armed groups and their participation in hostilities. Effective

mechanisms need to be put in place to monitor the distribution and use of arms and ammunition provided by other countries to the Sierra Leone Army and other forces fighting on behalf of the Sierra Leone government in order to ensure that they do not reach combatants under the age of 18. Continuing military assistance to government forces should be conditional on guarantees being provided that such assistance does not facilitate the recruitment and use of child combatants, or contribute to other human rights violations. If evidence is found that military assistance from other countries facilitates the recruitment and use of child combatants, the international community has a responsibility to ensure that such assistance is suspended.

The UK government has provided substantial assistance to the government of Sierra Leone for training and equipping the new Sierra Leone Army. As a condition for proceeding with training and equipping the Sierra Leone Army, the UK government sought and obtained assurances from President Kabbah in March 1999 that children under the age of 18 would not be used by the Sierra Leone Army or the CDF and that equipment supplied would be used in accordance with international human rights and humanitarian law.

The UK leads what will become a 90-strong military training team composed of military personnel from several other countries. Some 200 UK military personnel are providing a two-month training for recruits for the new Sierra Leone Army; a first contingent of 1,000 recruits completed their training in July 2000 and a further contingent of 1,000 is now being trained. All have been over 18. In addition, the UK continues to provide arms and ammunition to the Sierra Leone Army.

On 23 May 2000 the UK Ministry of Defence announced that it would be transferring 10,000 self-loading rifles to the Sierra Leone Army to assist in military operations against the RUF. UK government officials stressed at the time that the program to train and equip the Sierra Leone Army would be carried out under strict supervision. It sought to allay fears that arms supplied by the UK government would fall into the hands of children. These fears were fuelled by a photograph published by a UK newspaper of a 14-year-old boy, alleged to be fighting with government-allied forces, with a weapon previously supplied by the UK government. A spokesperson for the UK government said on 24 May 2000 that: "*We have instructed the [(UK) High Commissioner in Sierra Leone to remind the President of his undertaking last year that UK-supplied weapons would be used only by regular soldiers and in accordance with international law.*" During a visit to Sierra Leone in early June 2000 UK Foreign Secretary, Robin Cook, obtained clear and public commitments from the leaders of government-allied force that they would not use child soldiers and that any remaining in their ranks would be disarmed and demobilized.

Further assurances were provided by the UK Secretary of State for Defence, Geoffrey Hoon, following an announcement that further military assistance, including ammunition, was to be transferred to the Sierra Leone Army. He was reported to have said on 12 July 2000 that: "*the ammunition is being provided subject to further reassurances that it will be used only by regular soldiers, in accordance with humanitarian law and human rights standards, and not by child soldiers.*"

## A violation of children's rights and a war crime

The recruitment and use of children under the age of 15 as combatants is prohibited by both international human rights law and international humanitarian law.

Invariably, the use of children as combatants violates the rights enshrined in the UN Convention on the Rights of the Child of 1989, ratified by Sierra Leone on 18 June 1990, for example by depriving them of a family environment, education and basic health care.

On 13 January 2000 the UN Committee on the Rights of the Child considered Sierra Leone's initial report on its implementation of the Convention on the Rights of the Child and adopted its concluding observations on 28 January 2000.<sup>(9)</sup> The Committee expressed "*its deep consternation at the very high numbers of children who have been forcibly recruited into armed forces, including children at least as young as five years old, and who have been forced to commit atrocities against other people, including other children and members of their community*". The Committee added that it was "*deeply saddened by direct effects of the armed conflict on all child victims, including child combatants, and is concerned with the tragic loss of life and severe psychological trauma inflicted upon them*".

Article 1 of the Convention on the Rights of the Child states that:

*For the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.*

Article 38 of the Convention on the Rights of the Child states that:

- *States Parties undertake to respect and ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.*
- *States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.*
- *States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of 18 years, States Parties shall endeavour to give priority to those who are oldest.*

*• In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.*

Amnesty International believes that voluntary or compulsory recruitment and participation in hostilities, whether on the part of governments or armed opposition groups, ultimately jeopardize the mental and physical integrity of anyone below the age of 18. For this reason, Amnesty International actively opposes the voluntary or compulsory recruitment, as well as participation in hostilities, of children below 18 by governments or armed opposition groups.

In line with the general age of majority set in the Convention of the Rights of the Child, Amnesty International and five other international non-governmental organizations have been calling for the age of military recruitment - be it voluntary or compulsory - as well as deployment in hostilities to be raised to 18.(10)

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict states:

*Article 1 States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.*

*Article 2 States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.*

*Article 4 (1) Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.*

*(2) States Parties shall take all feasible measures to prevent such recruitment and use, including adoption of legal measures necessary to prohibit and criminalize such practices.*

*(3) The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.*

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was adopted by the UN General Assembly on 25 May 2000 and is now open for signature and ratification. The Optional Protocol raises the age for participation in hostilities, for both the armed forces and armed groups, from 15 to 18. Eight countries have so far signed the Optional Protocol; only one, Canada, has ratified it. UN Security Council 1314 (2000) on children and armed conflict urged member states to ratify the Optional Protocol.

The African Charter on the Rights and Welfare of the Child, which entered into force on 29 November 1999, is the only regional instrument which specifically prohibits the recruitment and use as combatants of children under 18 in both international and internal armed conflicts. Article 22 (2) requires States Parties to "take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child". Sierra Leone has signed but not yet ratified the African Charter on the Rights and Welfare of the Child.

International humanitarian law - the laws of war - also prohibits the recruitment of children under 15 into the armed forces of governments and armed opposition groups as well as their participation in hostilities.(11)

Article 4 (3)(c) of Additional Protocol II to the Geneva Conventions states that:

*Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities.*

Francis, now aged 16 and at the interim care centre in Lungi, was abducted by rebel forces in 1998. He told Amnesty International on 15 July 2000: "As far as the Geneva Conventions are concerned, we should not fight. They have violated our rights. Even the government troops, they some time ago made a mistake of killing the children because the rebels use children."

Many of the children who have been abducted and forcibly recruited have also been victims of deliberate and arbitrary killing, beatings and other forms of torture or ill-treatment. Girls have been raped and forced into sexual slavery. These abuses constitute the most serious violations of international humanitarian law. Article 3, common to all four Geneva Conventions, extends to "armed conflict not of an international character" (internal armed conflict) fundamental rules for the protection of those taking no active part in hostilities which each party to the conflict is "bound to apply, as a minimum". Under the terms of common Article 3, people who take no active part or who have ceased to take an active part in hostilities must be treated humanely in all circumstances. Common Article 3

specifically prohibits: "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment." This prohibition is binding not only on government forces but on all parties to internal armed conflicts, including armed political groups.

Additional Protocol II of the Geneva Conventions relating to the protection of victims of internal armed conflicts, which develops and supplements common Article 3 of the Geneva Conventions, requires all parties to the conflict to treat humanely every person affected by the conflict. Article 4 of Additional Protocol II prohibits: "violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment" of all those not taking a direct part in hostilities or who have ceased to take part in hostilities.

In Resolution 1314 (2000) on children and armed conflict the UN Security Council urged: "all parties to armed conflict to respect fully international law applicable to the rights and protection of children in armed conflict, in particular the Geneva Conventions of 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977, the United Nations Convention on the Rights of the Child of 1989 and the Optional Protocol thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court."

## Bringing to justice those who recruit and deploy children as combatants

Although the recruitment of children is unlawful in many countries, prosecution is rare. The majority of the world's nations finalized in July 1998 the Statute of a permanent International Criminal Court which will have jurisdiction to prosecute those charged with war crimes, genocide, aggression and crimes against humanity. Included in the list of war crimes is "conscripting or enlisting children under the age of 15 years into national armed forces or using them to participate actively in hostilities" and, in the case of an internal armed conflict, "conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities". The International Criminal Court will be formally established once 60 states have ratified the Statute, thereby giving the court jurisdiction over these provisions. Sierra Leone signed the Statute on 17 October 1998 and intends to ratify it shortly.

On 12 February 1999, Carol Bellamy, Executive Director of UNICEF, stated at a UN Security Council Open Briefing on the Protection of Civilians that: "over 300,000 children, girls as well as boys, have participated as combatants in the 30 most recent conflicts. Many are recruited - others are abducted. Some join simply to survive. And many of these children, some less than 10 years old, have witnessed or taken part in acts of unspeakable violence, often against their own families or communities... Children's recruitment as members of the armed forces, their rape and slaughter, and the targeting of their schools and hospitals are recognized by the International Criminal Court statute for what they are: heinous atrocities."

The UN Security Council, in Resolution 1261 (1999) of 25 August 1999 on children and armed conflict, called on all parties concerned to comply strictly with their obligations under international law, in particular the Geneva Conventions, the Additional Protocols, and the Convention on the Rights of the Child, and stressed "the responsibility of all States to bring an end to impunity and their obligation to prosecute those responsible for grave breaches of the Geneva Conventions of 12 August 1949".

This was reiterated by the UN Security Council in Resolution 1314 (2000) in which it emphasized the responsibility of all States: "to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, and, in this regard, stresses the need to exclude these, where feasible, from amnesty provisions and relevant legislation." In a statement issued on 11 August 2000 when the resolution was adopted, UNICEF said that it: "underlines the urgent need for an end to impunity for those who commit crimes against children."

Although the use of child combatants under 15 violates both international human rights and humanitarian law, no one in Sierra Leone has yet been brought to justice for these crimes. The peace agreement signed in July 1999 provided an amnesty for all activities undertaken in pursuit of the conflict, including human rights abuses, even when amounting to crimes against humanity or war crimes. The UN at the time added a disclaimer to the agreement that the amnesty would not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law. Although the amnesty did not apply to crimes committed after 7 July 1999, human rights abuses against civilians, including deliberate and arbitrary killings, mutilation, rape, abduction and forcible recruitment continued to be committed with impunity.

By June 2000, with the lack of implementation of key provisions of the peace agreement, the resumption of hostilities and the arrest of the leader of the RUF, Foday Sankoh, and other leading members of the RUF, initiatives by the authorities began to address the issue of impunity. On 12 June 2000 the government wrote a letter to the UN Secretary-General requesting assistance from the UN in establishing a special court to try Foday Sankoh and other senior members of the RUF for "crimes against the people of Sierra Leone and for the taking of UN peace-keepers as hostages".

On 14 August 2000 the UN Security Council passed Resolution 1315 (2000) on the creation of an independent special court. Amnesty International has urged that the special court try all those alleged to be responsible for crimes under international law, including crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as certain grave crimes under national law, throughout the period since the conflict began in 1991. This would include the forcible recruitment and deployment of children under 15. Although forces of the RUF have been responsible for systematic and widespread abuses throughout the conflict, those of the AFRC, the Sierra Leone Army and the CDF have also been responsible for gross human rights abuses, including violations of international humanitarian law. Those allegedly responsible for these crimes, whether they be members of the RUF, the AFRC, the Sierra Leone Army and regardless of their current political position or allegiance, must be brought to justice.(12)

Child combatants themselves will not be brought to trial before the International Criminal Court, as the Statute bars it from exercising jurisdiction over any person who was under 18 at the time that the crime was committed. Child combatants in Sierra Leone have been responsible for gross human rights abuses; many of the worst atrocities have been carried out by children who were abducted and subjected to horrifying acts of violence. In a situation where crimes have been committed by children terrorized and brutalized into submission, complex questions about their criminal responsibility are raised.

While recognizing the need for justice and accountability, former child combatants must be treated in accordance with the principles of juvenile justice, which place the best interest of the child as a priority, recognize the special factors and needs of childhood, and place an emphasis on rehabilitation and reintegration rather than punishment. In conformity with the provisions of the Convention of the Rights of the Child, arrest, detention or imprisonment of a child must be in accordance with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. Any child who is detained should be held separately from adults.

## **The Sierra Leone government's responsibility to end the use of child soldiers**

The government of Sierra Leone has made repeated commitments to demobilize all combatants under the age of 18, to raise the legal age of military recruitment to 18 and to fulfil its obligations under the UN Convention on the Rights of the Child.

Considering Sierra Leone's initial report in January 2000, the UN Committee on the Rights of the Child expressed its deep concern about the massive participation of children associated with fighting forces in Sierra Leone, either as combatants or in other roles. The Committee also noted that there is no minimum age defined by national legislation for voluntary recruitment, when the consent of a specified adult party is given. The Committee welcomed the government's intention to pass legislation raising the minimum age of recruitment to 18 and urged the government to move quickly towards passing this legislation and to ensure that the new legislation was enforced.

On 24 May 2000, following reports that children were either fighting with government-allied forces or were being allowed to remain in front-line positions, the government issued a statement reiterating its position on the recruitment of child soldiers (see appendix A).

The government stated that this practice was "*totally against government policy which stipulates that 18 years is the minimum age for bearing arms in Sierra Leone*". The statement continued: "*The Acting Chief of Defence Staff has been instructed to ensure that all those below the age of 18 currently involved in fighting on the side of the government should be immediately withdrawn, demobilized and handed over to competent institutions for rehabilitation. Henceforth, any commander who allows a child below 18 years to carry arms within his area of operations or allows children to remain in areas of active conflict will face severe disciplinary action.*" It is not clear, however, what measures have been taken to implement these commitments.

On the same day Johnny Paul Koroma, leader of the AFRC, issued statements on behalf of the AFRC and the Commission for the Consolidation of Peace which he heads. In these statements Johnny Paul Koroma "*warned all warring factions to desist from recruiting child soldiers*" and stated his strong opposition to the recruitment of child soldiers by both government-allied forces and rebel forces.

On 22 March 2000 CARITAS-Makeni launched a campaign to end the use of child combatants. Secondary school children marched through the centre of Freetown and speakers representing the government, UN agencies and non-governmental organizations called publicly for an end to the use of child combatants.

A Declaration of Commitment to the Release of Child Combatants and Child Abductees by the Various Factions was drafted as part of the campaign and signed by Chief Hinga Norman, Deputy Minister of Defence and National Coordinator of the CDF, Johnny Paul Koroma, leader of the AFRC and Chairman of the Commission for the Consolidation of Peace, and Colonel Tom Carew, acting Chief of Defence Staff. RUF leader Foday Sankoh declined to sign the declaration (see appendix B). The declaration made the following commitments:

*Article 1 The parties hereto shall forthwith facilitate the disarmament of all child combatants, that is to say, children under the age of 18 years and bearing arms and shall take immediate steps to prevent the use of child combatants in any manner whatsoever.*

*Article 2 The parties hereto shall in tandem with the actions contemplated in Article 1 above, release, free and cause to be released, all children and other persons abducted both during the conflict and after the signing of the Lomé peace accord.*

*Article 3 The parties shall in utmost good faith facilitate the return and/or handing over of child combatants and abductees to UNAMSIL, disarmament, demobilization and reintegration camps and other humanitarian agencies by 15 May 2000 (the International Day of the Family), to enable them to receive care and attention and ultimately to be reunited with their families and relatives.*

*Article 4 The parties in this regard undertake to cooperate with UNAMSIL, all agencies concerned with the welfare of children and the war affected and shall assiduously work towards the attainment of goals enumerated in the Declaration.*

Following the signing of the peace agreement in July 1999 Foday Sankoh became the Chairman of the Commission for the Management of Strategic Resources, National Reconstruction and Development, and assumed the protocol rank of Vice-President. Other RUF members also became part of the government by being appointed to ministerial and deputy ministerial positions. The RUF therefore became obliged not only to implement the provisions of the peace agreement which it had signed, but also to implement the

government's commitments under the Convention on the Rights of the Child.

Article XXI of the peace agreement stated specifically that all prisoners of war and non-combatants should be released immediately and unconditionally by both parties. This would include the thousands of civilians, including children, who had been abducted by rebel forces. Article XXX of the peace agreement stated that the government of Sierra Leone should give particular attention to the issue of child combatants and should mobilize resources, both within Sierra Leone and from the international community, to address the special needs of former child combatants in the process of disarmament, demobilization and reintegration.

Foday Sankoh frequently denied that the RUF had abducted children. In a meeting with Amnesty International representatives on 25 March 2000 he said that the RUF had not abducted any children but had "rescued" them and was not holding any children captive. He was arrested on 17 May 2000, after more than 20 civilians were shot and killed by his forces during a demonstration outside his house in Freetown on 12 May 2000, and remains in detention. Other prominent members of the RUF are also detained. They are expected to be charged with a number of offences, including crimes amounting to violations of international humanitarian law.

In late April 2000, just before the resumption of hostilities, the government of Sierra Leone agreed to establish a National Commission for War-Affected Children in order to ensure that children's concerns are addressed at the highest political levels. This agreement was reached during a visit to Freetown on 29 and 30 April 2000 of the Special Representative of the UN Secretary-General for Children and Armed Conflict, Olara Otunnu, and the Canadian Minister of Foreign Affairs, Lloyd Axworthy.

### Moves by the international community to end the use of child soldiers

The plight of children in Sierra Leone has been highlighted repeatedly by the international community and commitments have been made to assist the children whose lives have been blighted by nine years of conflict. In the Eighth Report of the UN Secretary-General on the UN Observer Mission in Sierra Leone (then known as UNOMSIL) of 23 September 1999, the Secretary-General stated that "*the plight of children is among the most pressing challenges currently facing Sierra Leone*".(13)

On 25 August 1999 the UN Security Council adopted Resolution 1261 (1999) on children and armed conflict. The Security Council urged States and all relevant parts of the UN: "*to intensify their efforts to ensure an end to the recruitment and use of children in armed conflict in violation of international law through political and other efforts, including promotion of the availability of alternatives for children to their participation in armed conflict*"; and also "*to facilitate the disarmament, demobilization, rehabilitation and reintegration of children used as soldiers in violation of international law*."

At a debate on children and armed conflict at the UN Security Council on 26 July 2000, Carol Bellamy, Executive Director of UNICEF, said that many of the values, principles and concrete commitments enshrined in the Convention on the Rights of the Child remained unfulfilled, as did those of Resolution 1261 (1999). The Special Representative of the UN Secretary-General for Children and Armed Conflict, Olara Otunnu, said that the use of child combatants must be curbed by mobilizing political pressure, addressing the economic, social and political factors leading to the use of child combatants and increasing capacity on the ground for receiving and rehabilitating child combatants.(14) Commenting on UN Security Council 1314 (2000) on children and armed conflict which was passed on 11 August 2000, UNICEF said that: "*The council has reminded the world that it is both immoral and illegal to make children the victims and protagonists of war... It has helped to maintain awareness of the unacceptability of turning children into soldiers, of forcing millions of children and women to flee their homes, and of subjecting children to forced labour, sexual abuse and the pressure to commit atrocities*."

Olara Otunnu has visited Sierra Leone on several occasions, most recently in April 2000, and has made recommendations for a special program for assisting children affected by the conflict. Following a visit in late August and early September 1999, he formulated a 15-point agenda for action for children affected by the conflict, which included recommendations in respect of: ending the recruitment and use of child combatants; access to and release of abducted children; demobilization of child combatants; and the establishment of a National Commission for Children in Sierra Leone.

UNAMSIL, whose current full strength is 13,000, but which is expected to be increased to 16,500 peace-keeping troops, was deployed to assist with the implementation of the peace agreement, including the disarmament, demobilization and reintegration of former combatants. UN Security Council Resolution 1313 (2000) of 4 August 2000 extended UNAMSIL's mandate until 8 September 2000 and requested the UN Secretary-General to make recommendations for the restructuring and strengthening of UNAMSIL.

The process of disarmament, demobilization and reintegration was first hampered by the failure of large numbers of combatants to disarm and demobilize and then halted by the resumption of hostilities in May 2000. The human rights section of UNAMSIL is providing training in human rights, including children's rights, and international humanitarian law for peace-keeping troops. Since the peace-keeping force comprises troops from several countries with different training and experience, it is essential to ensure that adequate time and resources are devoted to comprehensive human rights training, including in children's rights. A child protection adviser was appointed to UNAMSIL in February 2000 and the UNAMSIL human rights section includes human rights officers with specific responsibilities for children's rights.

Resolution 1261 (1999) of 25 August 1999 on children and armed conflict specifically requested the UN Secretary-General to ensure that: "*personnel involved in United Nations peacemaking, peacekeeping and peace-building activities have appropriate training on the protection, rights and welfare of children*." It urged States and relevant international and regional organizations to ensure that appropriate training was included in their program for personnel involved in similar activities.

At the end of the African Conference on the use of Children as Soldiers, held in Maputo, Mozambique, from 19-22 April 1999, participants adopted a declaration against the use of children as combatants. The Declaration calls on all African states to end the recruitment of all children under 18 into the armed forces. The Declaration also condemned the use of children by armed opposition groups and called upon these groups to end the recruitment of children and to demobilize or release into safety children already being used as combatants.

On 27 and 28 April 2000 a West African ministerial conference on war-affected children was held in Accra, Ghana, sponsored and co-hosted by the governments of Ghana and Canada. It brought together ECOWAS foreign ministers, as well as civil society organizations, donor governments, UN representatives, including Olara Otunnu, and children affected by conflict in the region. The primary objective of the event was to mobilize concrete action for child protection in a region whose children have been acutely affected by armed conflict. The conference focused on practical ways to implement and support international instruments of child protection, such as the African Charter on the Rights and Welfare of the Child and the Convention on the Rights of the Child.

At the end of the conference the delegates adopted and signed a West African Declaration on War-Affected Children which is expected to lead to commitments to: implementation of existing international, regional and local norms; ratification of the Statute of the International Criminal Court; incorporation of child rights and civilian protection into military training; and implementation of early warning/response systems to prevent armed conflict. At the conclusion of the conference, the Canadian Minister of Foreign Affairs said: "*The protection of children affected by war and the promotion of their well-being is a moral, political, social and economic imperative.*" The outcome of the conference will be discussed and developed at an International Conference on War-Affected Children to take place in Winnipeg, Canada, in September 2000.

While some countries have made commitments towards providing assistance to children affected by the conflict and others have made significant contributions towards the disarmament, demobilization and reintegration of former combatants, the attention of the international community should continue to focus on the needs of former child combatants, both on securing their disarmament and demobilization and also providing the assistance they need to be rehabilitated and reintegrated into their families and communities. All these initiatives will require sustained commitment and resources from the international community.

### **Amnesty International's recommendations**

Amnesty International is urging that the Sierra Leone government, the leaders of the RUF and the international community implement swiftly and effectively the following recommendations in order to end the recruitment and use of child combatants in Sierra Leone and to meet the particular needs of former child combatants.

### **Recommendations to the Sierra Leone government, including the Chief of Defence Staff, the Deputy Minister of Defence and the leader of the AFRC:**

- the highest priority should be given to the immediate disarmament, demobilization and reintegration of child combatants;
- prompt and effective measures should be taken by the government to ensure that no child under the age of 18 is recruited for military service, including by passing legislation raising the minimum age for military recruitment to 18;
- the Chief of Defence Staff should ensure that there is effective chain of command over all forces fighting on behalf of the government to ensure the immediate demobilization and disarmament of child combatants currently serving in these forces and to ensure that no child under the age of 18 is recruited or used in the future;
- the leader of the AFRC should give immediate effect to his condemnation of the recruitment and use as combatants of children under the age of 18 by instructing AFRC forces to release all children, both those used as child combatants or in any way associated with AFRC forces;
- the Deputy Minister of Defence and National Coordinator of the CDF should immediately and unequivocally denounce the recruitment and use of children under the age of 18 by the CDF and instruct all CDF leaders to immediately demobilize and disarm all child combatants serving with the CDF and to cease any further recruitment;
- the government of Sierra Leone should take steps to implement the recommendations of the UN Committee on the Rights of the Child, including by identifying priorities relating to child combatants and defining strategies to implement those priorities;
- the government should ratify without delay the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the African Charter on the Rights and Welfare of the Child, and the Statute of the International Criminal Court;
- the government should take effective measures to end impunity and prosecute those responsible for crimes under international law including violations of international humanitarian law, such as the abduction and forcible recruitment of children under the age of 15.



### **Recommendations to the leaders of the RUF:**

- leaders of the RUF should immediately and publicly condemn and prohibit the recruitment and use of child combatants and RUF forces should immediately cease forcible or voluntary recruitment and use of children under the age of 18;
- RUF forces should be instructed to release immediately all children either used as combatants or in any way associated with fighting forces;
- leaders of the RUF should make a public commitment to observing international humanitarian law, in particular Additional Protocol II of the Geneva Conventions of 1949;
- RUF forces should be instructed to end deliberate and arbitrary killings, rape, sexual abuse and other forms of torture or ill-treatment of all captured civilians, including children;
- RUF forces should also allow immediate, full and unhindered access by child protection agencies and UNAMSIL personnel supervising the disarmament and demobilization program to children who continue to be held;
- RUF forces should allow immediate, full and unhindered access by humanitarian agencies, both national and international, to all civilians, including children, who continue to be held, and the delivery of humanitarian assistance.

### **Recommendations to the international community:**

- the international community should repeat its condemnation of the continuing recruitment and use of children as combatants in Sierra Leone which constitute a crime under international law and a violation of both international human rights and international humanitarian law;
- the highest priority should be given to implementing commitments made to end the use and recruitment of child combatants, including by taking concrete measures to implement UN Security Council Resolution 1314 (2000) of 11 August 2000;
- in all efforts to resolve the political and security crisis in Sierra Leone, including any reconsideration or renegotiation of the peace agreement signed in Lomé, Togo, on 7 July 1999, the needs of children affected by the internal armed conflict, including child combatants, should be given the highest priority;
- all governments should take all possible measures to end military transfers, including arms, ammunition, combatants and training, to rebel forces in Sierra Leone and enact legislation to prevent the trade in diamonds from rebel-held areas of Sierra Leone from facilitating the provision of military assistance to rebel forces;
- those governments which are providing military assistance, including training, arms and ammunition, to the Sierra Leone Army and other forces fighting on behalf of the government should first ensure that stringent safeguards are in place to ensure that this assistance does not facilitate or encourage violations of international human rights and humanitarian law, including the recruitment and use of child combatants; these safeguards should also include effective mechanisms to ensure that arms do not reach combatants under the age of 18; if evidence is found that such assistance facilitates the recruitment and use of child combatants, such assistance should be suspended;
- the international community should provide full and sustained support and assistance to relevant UN agencies and non-governmental organizations, both national and international, in order to strengthen initiatives for child protection, prevent further recruitment and use as combatants of children under the age of 18 and assist the disarmament, demobilization and reintegration of former child combatants, including by addressing their social, psychological and material needs;
- the child protection adviser and human rights section of UNAMSIL must be given full political support and adequate resources in order to undertake their work in relation to child protection;
- the UN should ensure that all troops participating in the UNAMSIL peace-keeping force are fully trained in international human rights and humanitarian law, including children's rights, and that they have training in addressing the specific needs of child combatants;
- the international community should ensure that those responsible for grave breaches of international human rights and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice; this should include provision of the necessary expertise and practical assistance for the independent special court to be established under UN Security Council Resolution 1315 (2000) of 14 August 2000.

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(1) For further information about the abduction, rape and other forms of sexual violence committed against girls and women, see *Sierra Leone: Rape and other forms of sexual violence against girls and women* (AI Index: AFR 51/35/00), published by Amnesty

International on 29 June 2000.

- (2) For further information about human rights committed during the conflict, see previous reports published by Amnesty International, in particular: *Sierra Leone: Recommendations to the international contact group on Sierra Leone, New York, 19 April 1999* (AI Index: AFR 51/05/99), 19 April 1999; *Sierra Leone: 1998 - a year of atrocities against civilians* (AI Index: AFR 51/22/98), November 1998; *Sierra Leone: A disastrous set-back for human rights* (AI Index: AFR 51/05/96), 25 September 1996; *Sierra Leone: Towards a future founded on human rights* (AI Index: AFR 51/05/97), 20 October 1997; *Sierra Leone: Towards a future founded on human rights* (AI Index: AFR 51/05/95), 13 September 1995.
- (3) *Assessing Trauma in Sierra Leone*, Médecins Sans Frontières (Holland), 11 January 2000.
- (4) Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone, S/2000/455.
- (5) Fifth Report of the Secretary-General on the United Nations Mission in Sierra Leone, S/2000/751.
- (6) S/1998/1236, Report of the Security Council Committee established pursuant to Resolution 1132 (1997) concerning Sierra Leone, 31 December 1998.
- (7) For further information, see *Neglected Arms Embargo on Sierra Leone Rebels*, published by Human Rights Watch on 15 May 2000.
- (8) For further information on Amnesty International's position on military assistance to rebel forces and the trade in diamonds, see *Sierra Leone: Cutting the link between diamonds and human rights abuses "forever"* (AI Index: AFR 51/56/00) 14 July 2000, *Sierra Leone: Amnesty International calls for fast and effective action on diamonds* (AI Index: AFR 51/54/00), 30 June 2000, and *Sierra Leone: Cutting the link between diamonds and guns* (AI Index: AFR 51/27/00), 31 May 2000.
- (9) Concluding Observations of the Committee on the Rights of the Child: Sierra Leone, CRC/C/15/Add.116.
- (10) Amnesty International, Human Rights Watch, International Federation *Terre des Hommes*, the International Save the Children Alliance, the Jesuit Refugee Service and the Quaker UN Office (Geneva) launched the Coalition to Stop the Use of Child Soldiers in June 1998. For further information, see *Stop Using Child Soldiers!*, Coalition to Stop the Use of Child Soldiers, second edition published by Ráddá Barnen on behalf of the International Save the Children Alliance in November 1998.
- (11) Sierra Leone acceded to the Geneva Conventions of 12 August 1949 on 10 June 1965. On 21 October 1986 it acceded to both Additional Protocol I of 8 June 1977 relating to the Protection of Victims of International Armed Conflicts, and Additional Protocol II of 8 June 1997 relating to the Protection of Victims of Non-International Armed Conflicts.
- (12) For further information on Amnesty International's recommendations for ending impunity in Sierra Leone, see *Sierra Leone: The United Nations Security Council should strengthen the independent special court to prosecute perpetrators of human rights abuses* (AI Index: AFR 51/66/00), 4 August 2000, and *Sierra Leone: Ending impunity - an opportunity not to be missed* (AI Index: AFR 51/60/00), 26 July 2000.
- (13) Eighth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/1003.
- (14) SC/6985. Security Council holds debate on children and armed conflict, 26 July 2000.

## Previous

**D. The Scars of Death: Children Abducted by the Lord's Resistance Army in Uganda (Human Rights Watch), September 1997 (*only part of this paper is included*)**

**THE SCARS OF DEATH****Children Abducted by the Lord's Resistance Army in Uganda**

**Human Rights Watch / Africa  
Human Rights Watch Children's Rights Project**

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## Uganda

Catherine, seventeen:

There was to be a big fight that day. The Arabs and Kony's group and another group of rebels commanded by Juma Oris [leader of the West Nile Bank Front] had come together and were fighting the Sudan People's Liberation Army. They had ordered all the pregnant women to be taken in a lorry to Juba. We could hear the bombs from afar.

A woman ordered me to go get water, so we girls went to the well. We heard gunfire very close by and ran into the bush. I couldn't run well because I had hurt my foot when we were digging. I didn't know what to do and tried to go back to the camp. I hid in a trench.

I could hear tanks entering the camp. It was getting dark. Bullets are red at night. I was praying. I got up slowly when things became quiet. There were dead bodies all around in the camp. No one was left in the camp. The rebels had all run away or were dead. I heard people speaking Kiswahili, and I knew they must be the Sudan People's Liberation Army, because the Arabs and Kony's rebels don't speak Swahili. One of the SPLA found me and started yelling. Another SPLA said that if I was a girl, I might be one of the Aboke girls. I felt so happy when I heard this. They took me to the Uganda government soldiers, who were in Sudan, and then I was flown to Gulu.

Ellen, fourteen:

My escape happened in the fighting against the Sudan People's Liberation Army. We were sent to fetch water, and we said to each other, "Let us each run our own way." So we started running.

After a time nine of us found each other again, and we walked until we came to a certain home among the Dinkas. The villagers surrounded us and said we were rebels, and we should be lined up and killed. But an elder from that place came, and said, "You do not kill these young children!" So instead they asked us if we had eaten, and they made some porridge for us, then took us to the Sudan People's Liberation Army, and the Sudan People's Liberation Army put us in a vehicle and brought us back to Uganda.

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### *The Future*

Children who escape from rebel captivity are in poor shape: they are usually in lice-ridden rags, covered with sores, scarred from beatings and bullet wounds. According to World Vision's Robby Muhumuza, the children arrive at trauma counseling centers "sick, malnourished, with low appetite. They have guilt feelings, are depressed and with low self-esteem . . . They have swollen feet, rough skin, chest infections . . . they tend to be aloof . . . with little confidence in themselves or others. They tend to lapse into absentmindedness as well as swift mood changes."<sup>(12)</sup>

Many of the children--especially the girls, who are routinely given to rebel leaders as "wives"--also have sexually transmitted diseases: "They arrive with gonorrhea, syphilis or sores, skin rash and complaints of abdominal pain and backache."<sup>(13)</sup> At World Vision in Gulu, 70 to 80 percent of the children newly arriving at the center test positive for at least one sexually transmitted disease.<sup>(14)</sup> Some of the girls are pregnant, while others, who tested negative for pregnancy, have stopped having their menstrual periods because of malnutrition and stress.<sup>(15)</sup> The trauma counseling centers do not test the children for HIV, reasoning that after their experiences in the bush, the children are not yet psychologically ready to be told that they may have contracted a fatal illness. But with HIV infection rates of 25 percent in parts of Gulu and Kitgum, it is overwhelmingly likely that many of the children--especially the girls--have become infected.

Counselors and children's advocates criticize the Uganda People's Defense Force for not providing escaped children with adequate medical care while the children are in UPDF control. "They don't always give them treatment right away," says Richard Oneka, a counselor. "Sometimes by the time they reach us, they've been with the UPDF for weeks without seeing a doctor."<sup>(16)</sup>

The Uganda People's Defense Force also sometimes brings recently escaped children to appear at public rallies, to drum up popular support for the fight against the rebels. This practice, too, is sharply criticized by children's advocates: "They display the children, and read out their names, which only increases the likelihood of rebel reprisals against the child or his family," explains Paulinus Nyeko of Gulu Human Rights Focus. "Also, they give details on how the child escaped. The rebels come to hear of it, and that makes it hard for other children to escape. The army is just using the children."<sup>(17)</sup>

In its 1996 report to the U.N. Committee on the Rights of the Child, the Ugandan government affirmed its general commitment "to improve the lives of . . . child soldiers" and its "special concern" for children abducted by rebels.<sup>(18)</sup> Nonetheless, the Uganda Child Rights NGO Network (UCRNN) has been critical of the government's response to the crisis in the north, noting that while the Museveni government provided "special services" for children who were caught up in civil wars of the early 1980s (when Museveni's guerrilla army fought the Obote and Okello regimes), "children caught up in the armed rebellion in northern Uganda since 1987 have not received adequate support from the government." According to UCRNN, "no government programmes or resources have been identified" for children abducted by the Lord's Resistance Army. UCRNN has called upon the government to "take concrete measures to address the needs of children caught up in armed conflict" and to "establish adequate responses for the long-term support of these children."<sup>(19)</sup>

Some of the children who escape from the rebels go immediately home to their villages, and some return to their boarding schools, but many end up staying, for a time, at the trauma centers operated by World Vision or the Gulu Save the Children Organization (GUSCO). Conditions in the centers are poor: too many children in small huts and tents, too few trained counselors, and not enough for the children to do. At one center, children are taught basic skills like carpentry, tailoring and bicycle repair, but at the others, the children spend much of their time just sitting around, playing card games or staring into space.

But at least the centers feel safe to the children: at the centers, they are surrounded by other children who have gone through similar experiences, and cared for by supportive, non-judgmental adults. This is not always the case outside of the centers: according to Robby Muhumuza, children who return home sometimes find that other families with young relatives still in captivity are "jealous of those who have returned." Some people also blame the children for rebel atrocities. Those villagers who had themselves suffered at the hands of Lord's Resistance Army rebels are sometimes "antagonistic, labeling the children 'rebels.'"<sup>(20)</sup> Occasionally, children face physical threats from community members who identify them as perpetrators of atrocities.<sup>(21)</sup>

For girls, in a culture which regards non-marital sex as "defilement," the difficulties are even greater: reviled for being "rebels," the girls may also find themselves ostracized for having been "wives." They fear "shame, humiliation and rejection by their relatives and possible future husbands." They may suffer "continual taunts from boys and men [who say they are] used products that have lost their taste."<sup>(22)</sup>

For many children, lack of community acceptance is the least of their troubles. "Many of these children have parents who were killed during their abductions," explains World Vision's Charles Wotman. "Others have families, but they have been displaced, and no one knows where they are."<sup>(23)</sup> Children without families worry that they will be unable to support themselves. Even those children with supportive homes and communities fear leaving the centers, because of the danger of being re-abducted and killed.

Sharon, thirteen:

I haven't been home since I was abducted, and I don't know where my family is. I met my cousin in Gulu and she told me that after I escaped, my uncle was killed. She said my mother and family ran away.

I want to finish my course in tailoring here, and try to look for a place to stay in Gulu town. I won't go home--I think I would be abducted again, and maybe killed.

Patricia, fifteen:

I'm afraid to go home because I'll be abducted again and killed. Home is not safe. My parents came to see me when I was in Gulu. They were so happy to see me. They said they thought I was dead. But they told me to stay away, to stay at [the trauma counseling center], because home is not safe.

Samuel, seventeen:

I've been here at the center for three weeks now. My mother came to see me last week. She told me that my other two brothers [who were abducted with me] have not returned. I hope they are still alive. I do not want to think about them.

My mother said that shortly after me and my brothers were abducted, the Lord's Resistance Army attacked our

home again, and looted, and burned it down. My mother has moved to Atiak trading center. She says home is not yet secure, and that she will look for a home for me in Gulu town. I want to take vocational training here at the center.

I think the world should think about Kony's actions because he is abusing children so much. Children also want to enjoy peace like their fathers and mothers enjoyed when they were young.

In the short term, the children face many direct threats to their lives and livelihoods. But the long-term psychological effects of their experiences can only be guessed at. For many children, fears about the future are accompanied by memories of the past, memories of their own pain and of the atrocities they witnessed and took part in:

William, ten:

I am afraid to go back home to my village, because the rebels are still there in plenty. I fear they will kill me if they come to know of me here. I was in primary three when I was abducted, and I would like to go back to school, if there is somewhere that is safe. I don't know. I am sad now. The other thing I would like to say is that I experienced the deaths of many children. I wish there could be a solution.

Thomas, fourteen:

When I think back, the hardest thing was seeing other children being killed. That was the hardest thing. The second hardest thing was the brutal life--someone can be beaten on no grounds at all. I don't know what I will do, now: I would like to go back home but it is still unsafe, and I fear the rebels coming again. I am learning bicycle repair here, but when I must leave I fear having no tools. I do not know how I will support myself.

Molly, seventeen:

I have been back at school now for almost three months. I tend to forget, almost, that it ever happened to me. But it often comes to me suddenly. I look around in class and see the seats that are still empty because of our girls who are still in the bush, and I think that the bad things that for me are over are still happening to them, and then I feel sad and afraid.

Teddy, thirteen:

A thing I remember is how if you tried to escape, they would put you in the center of the circle and stab at you with bayonets or pangas. Sometimes little pieces of the bodies would come off. This is what I remember most often.

As for me now, I am very happy here for the time right now. I would like to go home and continue a normal education, but there is nobody to support me. There is nobody to care for me. I pray to God to help.

For other children, it isn't the waking memories that are worst, but the dreams. "These children don't want to remember what they've been through," says James Kazini, commander of the army's Fourth Division in Gulu. "My wife and I had several of the escaped girls staying in our house, before they went back to school, and they were all dreaming in the night: at one time, one of the girls woke us shouting, because she said she was seeing blood everywhere, blood floating out of the bed." (24)

Stephen, seventeen:

I went to the elders and I was cleansed: I had to be cleansed because I killed. It does not matter that you did not wish to kill. You still have killed and must become clean again. For me, I am older, and I think I will be all right. But I am thinking that it is the young boys and young girls who will not be all right.

I am very much interested to go back to school. So for now I am just here, and I am feeling okay. But I don't feel yet free, because of some dreams that can come at night, because of the bad things that happened to me in the bush. Killing people, dead bodies, the sound of gunshots--sometimes you wake up and it is as though that

is what is still taking place. Life with the rebels was really very bad.

Timothy, fourteen

I don't know what I will do in the future. Since I've been here [at the trauma counseling center], I haven't seen my family, and am sad that they haven't come. I don't know anything about them--I have no news. I can't go home. I'll be re-abducted and killed straightaway. At least here, I feel safer than at home. I dream at night of being re-abducted, or that I am still a captive, walking somewhere.

Susan, sixteen:

I feel so bad about the things that I did. It disturbs me so much, that I inflicted death on other people. When I go home I must do some traditional rites because I have killed. I must perform these rites and cleanse myself. I still dream about the boy from my village who I killed. I see him in my dreams and he is talking to me and saying I killed him for nothing, and I am crying.

### Relevant International Humanitarian Standards

The human rights abuses of the Lord's Resistance Army shock the conscience, and violate the most elementary principles of international humanitarian law. The LRA's abuses of children's rights are both too numerous and too self-evident to make an exhaustive list of relevant international human rights standards necessary. Most pertinently, however, the LRA's actions violate the provisions of Common Article 3 of the Geneva Conventions of 1949, which lays out the minimum humanitarian rules applicable to internal armed conflicts:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, or mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.<sup>(25)</sup>

Since Common Article 3 of the Geneva Conventions is binding on "each Party to the conflict"--that is, it is binding on both governmental and non-governmental forces--the Lord's Resistance Army currently stands in flagrant violation of international humanitarian law.

Currently, the Geneva Conventions and the U.N. Convention on the Rights of the Child establish fifteen as the minimum age at which states that have ratified these treaties may recruit children into their armed forces. Since the Lord's Resistance Army is a nongovernmental force, it is not a party to these treaties (although it remains bound by Common Article 3 of the Geneva Conventions, cited above). Nonetheless, these treaties establish clear principles of customary international law with regard to



transportation over poorly maintained rural roads. The rebels fear that the existence of bicycles enables civilians to warn government soldiers quickly of rebel activity.

11. The existence of slavery in Sudan (particularly involving children from southern Sudan) has been well-documented. See, for instance, Human Rights Watch/Africa & Human Rights Watch Children's Rights Project, *Children of Sudan: Slaves, Street Children and Child Soldiers* (New York: Human Rights Watch, 1995).

12. Robby Muhumuza, *The Gun Children of Gulu* (Uganda: World Vision, December 1995), pp. 9-10.

13. Ibid.

14. Human Rights Watch interview, World Vision's Gulu Tramatized Children of War Project, Gulu, May 30, 1997.

15. Human Rights Watch interview, Concerned Parents of Aboke, Lira, May 27, 1997.

16. Human Rights Watch interview, Richard Oneko, Counselor, Gulu Save the Children Organization, Gulu, May 30, 1997.

17. Human Rights Watch interview, Gulu, May 30, 1997.

18. Government of Uganda, report on the implementation of the U.N. Convention on the Rights of the Child, 1 February 1996. The Ugandan Constitution lays out certain basic rights of children: "Every child has a right to know and be cared for by his parents . . . a child has a right to a basic education . . . No child shall be deprived of medical care, education or any other social and economic benefit." Constitution of the Republic of Uganda, enacted September 22, 1995, promulgated October 8, 1995. Chapter Four, Paragraph 17. The Government's duties with regard to children are elaborated in the Children Statute of 1996, which entered into force in August 1997. The statute defines a child as "a person below the age of eighteen years," (Part II, paragraph 3), and states that "whenever the state, a court, a local authority or any person determines any question with respect [to] the upbringing of a child . . . the child's welfare shall be the paramount consideration." (First Schedule, paragraph 1). Specifically, "A child shall have the right . . . to a just call on any social amenities or other resources available in any situation of armed conflict or natural or man-made disasters." (First Schedule, Paragraph 4b).

The constitution also declares that Ugandan children have "all the rights set out in the U.N. Convention on the rights of the child and the OAU Charter on the rights and welfare of the child. . . ." (First Schedule, paragraph 4c). The U.N. Convention on the Rights of the Child states that "States parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not a direct part in hostilities . . . In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict." Convention on the Rights of the Child, Article 38. The African Charter on the Rights and Welfare of the Child reiterates these principles in Article 22: "States parties to the present charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife."

19. Uganda Child Rights NGO Network, "Response to the Government of Uganda Country Report on the Implementation of the U.N. Convention on the Rights of the Child," pp. iii, 12.

20. Muhumuza, "Gun Children," p. 11.

21. Human Rights Watch interview, Lacor Hospital, Gulu, May 29, 1997.

22. Robby Muhumuza, *Girls Under Guns* (Uganda: World Vision, December, 1995), pp. 12-13.

23. Human Rights Watch interview, Kiryandongo, May 26, 1997.

24. Human Rights Watch interview, Gulu, May 30, 1997.

25. The protections established by Common Article 3 are developed and supplemented by Protocol II to the Geneva Conventions of 1949, which applies to internal armed conflicts "which take place in the territory of a High Contracting Party

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**E. Treatment of Neuropathic Pain in Sierra Leone (Doctors Without Borders),  
1 July 2002**

Source: Médecins Sans Frontières (MSF)

Date: 01 Jul 2002

## Treatment of neuropathic pain in Sierra Leone

*By Phillipe Lacoux and Nathan Ford - This article first appeared in The Lancet*

### Summary

During Sierra Leone's violent decade-long war, the warring parties used amputation, especially of arms, as a means of terror. In a camp for amputees in the capital city Freetown, Médecins Sans Frontières established a clinic and a treatment programme for neuropathic pain.

Insecurity and cultural and language barriers have complicated this work, but medical and humanitarian benefits have been demonstrated. Pain services are virtually non-existent in less-developed countries. There have recently been no major treatment advances for neuropathic or phantom pain; however, the general body of knowledge about amputation pain can be increased by observations from these difficult settings.

Clinics devoted to the treatment of chronic pain syndromes are a relatively new development. The scientific knowledge behind the treatment of pain is growing through the work of organisations such as the International Association for the Study of Pain and the Pain Society in the UK.

For both medical and humanitarian reasons, <sup>1</sup> there are acute pain services in most hospitals in the UK. There is growing evidence that improved treatment of acute pain can reduce the incidence of chronic pain. In less-developed countries, where basic medical services may be in disrepair, pain services are virtually non-existent, although interest in the subject is growing. A chronic-pain clinic in Tanzania recently reported a mixture of cases similar to that seen in UK clinics. <sup>2</sup>

Non-governmental organisations also contribute to pain treatment services. Douleurs sans Frontières, for example, has worked in various places particularly with landmine victims. <sup>3</sup>

Aid organisations provide a large part of the aid to victims of humanitarian crises in less-developed countries. In recent years, these agencies have become more reflective about the quality of care provided. <sup>4</sup> How agencies distribute their limited resources in the face of overwhelming need is constantly being re-evaluated. <sup>5</sup> Their goal is not simply to increase the availability of health care, but also to focus on particular areas of need that, for reasons of marginalisation, stigmatisation, or the injustice that results from limited resources, <sup>6</sup> may otherwise be left unaddressed.

Médecins Sans Frontières (MSF) is an emergency medical relief organisation that runs around 500 medical relief programmes in over 80 countries worldwide. It responds to humanitarian crises where there is broad abuse of freedom, and where violence and war lead to social injustice. For several years MSF provided surgical support to the main government hospital in Freetown, Sierra Leone. This article describes the work, beginning in early 2000, of an anaesthetist (PL) and a local community health officer working for MSF surgical programme in a pain clinic in the Murray Town Amputees' camp in Freetown.

### Sierra Leone's violent past

In 1991, civil war broke out in Sierra Leone between the government and the Revolutionary United Front (RUF), which was formed by people who felt excluded from government because of corruption and nepotism. In the ensuing decade, the government of Sierra Leone became weakened and after several military coups the national army became discredited.

All parties involved in the war have been implicated in the perpetration of war crimes, <sup>7</sup> and civilians have been the victims of various human rights abuses, including rape, abduction, and violent amputation. <sup>8,9</sup> Furthermore,

armed forces present as part of regional peacekeeping organisations have not been innocent.

The West African peacekeeping force known as ECOMOG were present in Sierra Leone at the invitation of the government. In January 1999, they were nearly thrown out of the country by the RUF during the campaign "Operation no living thing". During their fight back for control of Freetown, ECOMOG were widely involved in killings and beatings.

This decade of conflict has claimed thousands of lives and produced more than 400,000 refugees. Over 1 million people are estimated to have been displaced.<sup>10</sup> Criteria for human development and life expectancy-access to improved water sources, immunisation rates, and access to essential drugs-place Sierra Leone bottom in the world tables.<sup>11</sup> One of the most distressing legacies of this war is the large number of amputees.

### **The origins of amputation in Sierra Leone**

The number of people in Sierra Leone who had amputations is not known, and some exaggerated figures have been produced. However, more conservative estimates put the numbers at fewer than 1,000 people who have lost an arm or a hand in the country, many of whom may not have been seen by medical or rehabilitation services.

However, an unknown number have died from infection or associated injuries, isolated from any assistance by distance and insecurity. In January 1999 alone, Freetown's main hospital treated 97 victims of amputation by axes and machetes (figure 1). MSF, working in one hospital, treated over 40 cases of serious lacerations to the arms and legs that were caused by attempted amputations.<sup>7</sup>

Various accounts are given for how the amputations started.<sup>12</sup> Some accounts suggest that, in their early days, the RUF needed to influence the civilian population; for example, to discourage them from taking in the harvest in a particular area. Amputation of the hands of people who defied their orders would intimidate all the people in an area.

Forms of political intimidation have also been cited. In his election campaign, Ahmad Tejan Kabbah (President of Sierra Leone since 1996) is alleged to have said, "use your hand to vote forme". Many people said that after amputation their hands were put into a bag and the perpetrators said they would send the bag to the president. The practice of amputation across the palm, leaving just the thumb, may derive from a closed-fist thumbs-up sign of another political group, called "One Love".

### **Initial pain assessment**

Murray Town Amputees' Camp in Freetown has been home to 2,000 people, about 140 of whom have lost an arm or hand, and a further 80 have had leg amputations. Together with their families, they have been displaced from their homes by the war. Visited by foreign journalists and VIPs, they have become a symbol of Sierra Leone's troubles; they are famous.

MSF decided to assess chronic pain among the large cohort of arm amputees after the community health officer (a trained primary healthcare provider) confirmed a pain problem.

Interviews were conducted via interpreters who had worked as physiotherapy and prosthetics assistants for Handicap International who witnessed daily the problem of amputees being unable to use prostheses owing to chronic pain. The interpreters were trained in the general characteristics of pain and use of the questionnaire that was used to assess pain. A local nurse explained the patients' information sheet to the study participants, making clear that, at this stage, we were offering nothing in the way of treatment. We wanted amputees' own descriptions of the pain they felt.

During our week of assessment (May 2000) the political and security situations deteriorated. The peace agreement signed in 1999 failed as fighting between all parties was resumed. Conflict was especially intense where United Nations (UN) forces were moving into RUF-controlled areas.

In some rural areas, UN peacekeepers and some non-governmental organisation personnel were kidnapped. Quite quickly over 500 UN troops were captured, their vehicles, weapons, and uniforms were stolen. There was a feeling of anxiety and suppressed panic. Following this, many non-governmental organisations including MSF took the decision to partially evacuate. Therefore, the pain assessment was hurriedly completed. Nevertheless, 40 questionnaires were gathered (table 1) and examined back in the UK.

Characteristic	Number of amputees (n=40)
<b>Sex</b>	
Male	32 (80%)
Female	8 (20%)
Mean (range) age, years	39.4 (16-68)
<b>Amputation</b>	
Total	51
Machete	35 (71%)
Axe	12 (19%)
Gunshot	4 (10%)
Unilateral amputation	29
Bilateral amputation	11
<b>Site</b>	
Below elbow	49 (98%)
Above elbow	2 (2%)
Other injuries in addition to the amputation	21/40 (53%)
Mean (range) time since injury, months	22.5 (10-49)
<b>Pain characteristics</b>	
Stump pain	40 (100%)
Phantom sensation	37 (93%)
Phantom pain	13 (33%)

**Table 1. Initial assessment of 40 arm amputees in May, 2000**

These early results showed that many of the amputees were still living with pain. Their amputations had happened between 10 and 48 months previously. The "chop" was with a machete in most cases, or with an axe in some; a few were the result of a bullet wound. We hoped very much that with the deterioration in security a new cohort was not in the making.

All of the 40 people we assessed had stump pain. <sup>13</sup> 13 had phantom pain ( table 1). Both stump and phantom pain were described in ways similar to those in which they are described in other parts of the world ( panel 1 ).

The explanations for the pains were both practical and consistent, the latter probably reflecting the discussion between amputees living closely together inside the camp.

#### Descriptions of stump pain

- Pricking, shocks, nervous, trembles, one point tender
- Heavy, draws\*, can radiate up arm
- Bite bite, shocks, runs down arm, easier when he hangs the arm down
- Swell up, cry, thunder, bites, made worse by the sun
- Scratches, stiff, warm, worse in heat, worse after drinking water
- Current, feels like it has been freshly cut

#### Explanations for stump pain

"Because some of my nerves and veins have been cut off and as a result I am not getting complete blood circulation."

"Sometimes [I] think that because I walk under the sun, which is hot that is why I feel the burning pain. When I get the desire to work with my hands and there is no way for me I then feel the pain"

"I believe it is because the blood is not circulating properly due to the amputation done to my hand"

#### Descriptions of phantom pain

- Numb, vibrates, stiff, like being hit by a stick, hot water, massage and bandage helped
- Scratching, warm, a painful scratch
- Like something growing bit by bit-the hand and so it hurts, at the same time the stump shakes
- Hot pepper
- Warm, pepper, needles

#### Explanations for phantom pain

"Because I still have the memories of my normal hand in my mind, since I was not born like this"

"Because I still have the memories of this missing part in my brain"

\*The word "draws" in Krio translates as stretching.

#### Panel 1. Descriptions of stump and phantom pain and explanations given by the patient for the phenomena

Pain scoring was a central part of the research. In our initial assessment, we had found that a number scale (0 for no pain; 10 for worst pain imaginable) seemed comprehensible, whereas a word scale (none, mild, moderate, severe and extreme) was not understood.

Translations into Krio (a language based on English that is the first or second language of most Sierra Leonians) and other languages were not exact or not available. We subsequently developed word scales for both mood and pain in Krio (panel 2).

#### In the past month how sad or happy have you been?

Very happy	= A glady too mos
Happy	= Glady
Normal	= E nor bad, or half half
Sad	= Me heart poil

Very Sad	= Me heart poil bad
<b>Word scale for pain</b>	
None	- None
Minor	- Small
Medium	- Half and half
Severe	- Serious

### Panel 2. Krio visual analogue and word scales for mood and pain

When we asked people what they now wanted in life, pain relief was not on their list. They replied in terms such as finding their family members (some of whom are alive, some of whom are not alive), returning to their homes, finding their lost possessions, finding employment, obtaining a modicum of personal success or progress, stability in the country, and regaining self-respect. Revenge was rarely mentioned and is still rarely an issue. These are important answers, but they did not mean that we should not attempt to intervene with the pain problems. Furthermore, for MSF the development of a protocol to treat neuropathic pain that could be adaptable to the various difficult situations in which the organisation works would also be useful.

### Pain treatment

Chronic-pain treatment was established when we were able to resume the MSF programme in the Murray Town Amputees' Camp in early 2001. The pain clinic was not limited to particular problems, and anyone with pain was able to attend; however, most of those who attended were amputees (table 2). The aim was to establish the clinic, train a local community health officer, and let the clinic function for a period, and then reassess. One useful outcome measure was whether such an activity could run with minimum expert input.

Pain site	Number of patients
Generalised body pain	23 (13%)
Head, face, mouth	14 (8%)
Neck	8 (4%)
Thorax	16 (9%)
Abdomen	7 (4%)
Back	42 (23%)
Upper limb stump	-
Unilateral	83 (46%)
Bilateral	19 (11%)
Total	102 (57%)
Lower limb stump	-
Unilateral	42 (23%)
Bilateral	1 (1%)

Total	43 (24%)
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A single patient may have several sites of pain.

**Table 2. Site of the pain in first 181 new patients seen in the clinic**

One of the local staff we employed was at first sceptical of there being a problem with pain, but became convinced otherwise during an early meeting with one of the camp's committees to discuss the planned intervention. One man described in detail the burning, "drawing" (stretching), and pricking in his elbow stump; he spoke in a loud voice with emphatic gestures and with vocal support from several others in the group. After this experience, the local staff member impressed upon us that there was a real problem here that we must do something about.

Consultations were by appointment and patients were given reminders to attend. The information we collected included demographics, pain descriptors, pain scoring, mood, use of prostheses, activities of daily living, and clinical examination. We also asked about other injuries-beatings were common and there were other amputations, including ears (figure 2) and toes.

Assessment of a new patient took approximately one hour; follow-up visits took 15 mins. If treatment had been started, the follow-up consultations were weekly, with the aim of checking for side-effects and repeating key messages as the opportunity arose (panel 3). Doses were increased as tolerated on a simple dosage regimen; patients could reach any dose on this regimen.

#### **Key messages**

- We believe that you have pain
- Pain does not mean continuing damage, the damage has already happened
- Medication may or may not help the pain
- Medication may take weeks or months to help
- Medication must be taken regularly
- Medication must be taken regularly
- Side effects become less as you continue to take the medication
- Only rarely are further operations useful
- Exercise and physiotherapy are good at reducing pain

#### **Dosage schedule**

##### *Week 1*

Amitriptyline 25 mg at night  
Carbamazepine 200 mg at night

##### *Week 2*

Amitriptyline 50 mg at night  
Carbamazepine 200 mg morning and night

##### *Week 3*

Amitriptyline 75 mg at night  
Carbamazepine 200 mg morning, midday and night



Patients remain on the dose they can tolerate

Drugs were used in combination, except in women of childbearing age

#### Criteria for starting medication

- Pain description included words such as shooting, shocking, burning, or cramping. The local term "drawing" was also commonly present, which translates as stretching
- History consistent with the physical damage of nerves
- Examination with cottonwool and blunt pin showed evidence of a difference from normal skin such as allodynia and hyperalgesia or numbness
- Pain scores and how it affects the patient's life were suggestive of a significant problem. For example pain waking them from sleep
- Patient wished to try it and could follow instructions

#### Panel 3. Aims, dosage, and criteria for treatment of amputees

Treatment goals were set in an attempt to avoid unrealistic expectations (eg, to be able to sleep at night without being woken by the pain, or to be able to wear a shoe). We were aware that rumours spread quickly with people living closely together and maintenance of realistic expectations was essential both for therapeutic reasons and because this group had already been exposed to various broken promises.

We took advice from the community health officer who was in charge of the general clinic and talked to the religious leaders, the camp committees, and to Handicap International. The latter played an important part in advising appropriate people—such as those having difficulty in rehabilitating owing to pain, or for whom pain was limiting the use of prostheses—to come to the clinic. They also gave feedback about problems or misconceptions that occurred and provided some of the elements common in pain clinics in more developed countries, such as physiotherapy and some psychological support. We could not hope to run along genuinely multidisciplinary lines, but we did try.

Although the clinic was positioned within the MSF health clinic and beside the Handicap International working area, the working conditions were not ideal. The room was noisy, positioned as it was between an orthotic workshop and a hut containing the generator. About 3.5 m square, the room was also hot. A maximum of three interviews could be undertaken at the same time.

Clinic tools were simple, mostly paperwork such as the record sheets and appointment cards (figure 3); examination was with cottonwool and a blunt pin. All of the criteria for starting medication (panel 5) had to be met by patients before treatment was started (unless examination results were equivocal and the other four criteria were met). Most cases showed both hyperalgesia with a blunt pin (thought to be indicative of a wind-up phenomenon in the spinal cord) and allodynia (pain with a stimulus not normally resulting in pain, which may reflect rewiring as Ab fibres sprout into C fibre regions) with cottonwool.

We chose the antidepressant amitriptyline and the anticonvulsant carbamazepine for treatment because there is wide experience with their use and demonstrated efficacy in the treatment of neuropathic pain.<sup>14-16</sup> Side-effect profiles were acceptable and the drugs were already on the MSF list of essential drugs. The drugs were used in combination, except in women of childbearing age for whom only amitriptyline was used owing to the association between carbamazepine and neural tube defects.

Social interaction is an essential part of medical work, but is inhibited when one is working with another culture, especially when working through interpreters. We sometimes found it hard to tell when people were upset: facial changes were small or the patient became silent. Working with interpreters could be frustrating because they may lead the patient to avoid upsetting issues or not relate information they find distressing.

Mirrors have been reported to be useful in the treatment of the phantom pain of amputees,<sup>17</sup> the theory being that putting back the visual input can complete a neural circuit.

We know what a profound experience seeing the missing limb can be. We constructed a mirror box to be used in treatment. Despite explanation of the aims and what they might feel, for most of the seven patients who tried it, the mirror box brought back the terrible events of the amputation.

When we talked with each of them the next day, they did not seem to be angry but they also had no intention of trying the mirror box again. As a method of potential help the use of the mirror box was justified as it is noninvasive, simple, and patient directed, but the preparation, explanation, and discussion of expectations was inadequate in this difficult setting.

### **Reassessment**

In late 2001, the clinic was reassessed (the locally trained community health officer had been in charge for the previous seven months). We reassessed the patients on medication, those who had stopped medication, and those never on medication; each group made up about a third of the total number of patients (now about 220, although not all amputees). We repeated some of the assessments used earlier in the year.

The side-effects of amitriptyline and carbamazepine frequently limit their use. Not surprisingly, therefore, side-effects were the most common reason given for stopping medication. Some people had moved away. Most who had stopped said they were interested in starting medication again, and these people were reviewed.

The majority of those on medication had complied with it for 7 months. The reasons for long intervals without medication were generally understandable (eg, illness or travelling away for a funeral). Short intervals occurred mostly because the patient forgot to take their medication or there were competing commitments such as training or a meeting. There was some confusion over dose and when to take medication. Most said they took the tablets for pain relief, although some said they took them to aid sleep, for a generally well body, or for an increased appetite.

After medication, improvements were found in measures of mood, in day-to-day life (eg, employment, prostheses use, reaching physical goals, and in activities of daily living) and in pain (measured by word scale and number scale). Patients on medication thought it had reduced their pain, and on examination there were fewer physical signs. These improvements cannot be attributed to medication alone; the passing of time and the increasing stability in the country may account for some. Patients did not simply receive tablets or no tablets, they also all received an assessment and some explanation of what they felt and had a chance to talk. These features may be equally important.

### **The future**

The general situation in Sierra Leone in early 2002 seems to be improving. There is free access for the UN forces throughout the country, disarmament of combatants is taking place, and displaced people are gradually returning to their home areas. The atmosphere during the mid-May parliamentary and presidential election was very calm. Rebuilding Sierra Leone is an enormous task and how conditions develop in the wider context of West Africa remains to be seen. Fighting has recently increased in neighbouring Liberia.

MSF's treatment of pain has both humanitarian and medical features. The chance for people to tell their story and to have acknowledgment of the pain seemed to be useful for them and, we hope, reduced fear. The main problems faced in undertaking this work were related to security, and the language and cultural barriers that had to be overcome.

Published research into neuropathic and phantom pain is exciting, but no major treatment advances are appearing. The striking CNS changes and plasticity of the system have been demonstrated in various studies, largely with positron emission tomography.<sup>17</sup> The body of knowledge about amputation pain can be added to by observations from frequently neglected and difficult settings like Sierra Leone.<sup>13,18</sup>

This work indicates that a combination of explanation, interest, and medication can help to improve the well-being of a vulnerable group in a setting of some social turmoil after nerve damaging injuries have led to neuropathic pain. Part of the benefit that results from such work is through showing people that we believe them about their pain, and can explain it a little, which in turn makes them less frightened by it.

#### Authors' contributions

PL wrote this paper as an account of his experiences in Sierra Leone. NF contributed to the writing of the paper.

#### Web sites

About the RUF

<http://www.fas.org/irp/world/para/ruf.htm>

About the IASP International Association for the Study of Pain

<http://www.iasp-pain.org>

About UNAMSIL

[http://www.un.org/Depts/dpko/unamsil/body\\_unamsil/htm](http://www.un.org/Depts/dpko/unamsil/body_unamsil/htm)

About Human Rights Watch

<http://www.hrw.org>

Médecins Sans Frontières

<http://www.msf.org>

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#### References

- <sup>1</sup> The Royal College of Surgeons of England and the College of Anaesthetists. Commission on the provision of surgical services: report of the working party on pain after surgery. London: RCS publications, 1990.
- <sup>2</sup> Mwafongo V, Mazubin . The pattern of pain seen among Dar es Salaam residents. Trop Doct 2001; 31: 227-28. [PubMed]
- <sup>3</sup> de Smet J, Charlton JE, Meynadier J. Pain and rehabilitation from landmine injury. Pain: Clin Updates 1998; VI: 1-4. [PubMed]
- <sup>4</sup> Griekspoor A, Collins S. Raising standards in emergency relief: how useful are Sphere minimum standards for humanitarian assistance?. BMJ 2001; 323: 740-42. [PubMed]
- <sup>5</sup> Ford N. , Bedell R. (Eds.) 1999; Intentions and consequences: human rights, humanitarianism and culture 1999; Amsterdam: Médecins sans Frontières
- <sup>6</sup> Benatar S. Resolving Moral Conflict. In: Ford , Bedell (Eds.) 2002; Justice and MSF operational choices pp. 5-6. Amsterdam: Médecins sans Frontières
- <sup>7</sup> Human Rights Watch. Sierra Leone: getting away with murder, mutilation, rape. new testimony from Sierra Leone. New York: Human Rights Watch, July 1999, 11: 3(A).
- <sup>8</sup> de Jong K, Mulhern M, Ford N, van der Kam S, Kleber R. The trauma of war in Sierra Leone. Lancet 2000; 355: 2067-68. [PubMed]
- <sup>9</sup> Amowitz L, Reis C, Lyons KH, et al. Prevalence of war-related sexual violence and other human rights abuses

- among internally displaced persons in Sierra Leone. JAMA 2002; 287: 4. [PubMed]
- 10 Global IDP Survey Database: <http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/>
  - 11 Human Development Report. In: United Nations development programme. Geneva: United Nations, 2001.
  - 12 Richards P. Fighting for the rainforest: war, youth & resources in Sierra Leone. 1996; London: International African Institute
  - 13 Lacoux PA, Crombie KI, Macrae WA. Pain in traumatic upper limb amputees in Sierra Leone. Pain (in press).
  - 14 McQuay H, Carroll D, Jadad AR, Wiffen P, Moore A. Anti-convulsant drugs for the management of pain: a systematic review. BMJ 1995; 311: 1047-52. [PubMed]
  - 15 McQuay HJ, Tramer M, Nye BA, Carroll D, Wiffen PJ, Moore RA. A systematic review of antidepressants in neuropathic pain. Pain 1996; 68: 217-27. [PubMed]
  - 16 Drug treatment of neuropathic pain. Drug Ther Bull 2000; 38: 89-93.
  - 17 Ramachandran VS, Hirstein W. The perception of phantom limbs. Brain 1998; 121: 1603-30. [PubMed]
  - 18 Isaakidis P, Swingler GH, Piennar E, Volmin k J, Ioannidis JPA. Relation between burden of disease and randomised evidence in sub-Saharan Africa: a survey of research. BMJ 2002; 324: 702-05. [PubMed]

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**F. No Compassion for Sierra Leone's Amputees (Wordpress.org), 29 March  
2007**

# Worldpress.org

## No Compassion for Sierra Leone's Amputees

Roland Bankole Marke, Wordpress.org correspondent, March 29, 2007

A harrowing, decade-long civil war endured by the citizens of Sierra Leone is now over, but many scars still remain. Top United Nations emissary Carolyn McAskie, responsible for peace-building, said: "The war has been over for five years. The peace has held; I think that's a Gold Standard. ... There is still a lot to do though."

President Ahmed Tejan Kabba has publicly told the nation that his government is bogged down with other overwhelming national priorities; therefore he could not address the individual needs of his people. He advised every Sierra Leonean to start helping themselves.

But thousands of amputees in this tiny nation barely the size of Maine cannot do that. Their personal battles with trauma have only intensified. The amputees' traumatic experiences have caused more emotional, mental and psychological nightmares than their physical wounds could communicate.

Presently, the government is busy with its pending presidential and parliamentary elections that are just a few months away. However, elections are not a curative measure for the thousands of amputees, such as Mamusu Thoronka and Tamba Ngaujah, who are still languishing in Sierra Leone's wilderness, handicapped and in destitution and despondency. They simply cannot fend for themselves.

The disturbing and graphic practice of mutilation and amputation germinated from the seeds sown during the 1991 civil war in the nation's eastern border town of Bormaru.

Sierra Leone shares close proximity and commonality with neighboring Liberia, where the diabolical genesis of dehumanization and brutality started. The government discounted the rebels, who migrated to Liberia to execute heinous crimes with the aid of Liberia's then-president Charles Taylor, as mere rabble-rousers. But history has come to quite a different judgment. Dire warnings fell by the wayside, to be trodden on or ignored. The government assured its citizens that the dreadful situation was under control, but innocent, peaceful Sierra Leonean civilians would encounter a bizarre, barbaric and innovative surgical nightmare.

The psychology behind the amputation of limbs, tongues or ears is the intent to instill panic within the government and in its citizens. In a previous election the people had voted overwhelmingly for President Kabba. Since they used their hands to vote, dismembering their limbs will prevent them from casting another ballot for a democratic government. The rebels' propaganda campaign of fear has been utilized to impose their will on the people of Sierra Leone, just like terrorists in the Middle East.

The United States recently opened a large, newly built embassy in Sierra Leone with C.I.A. and F.B.I. facilities on-site to help combat terrorism in all its forms.

Mamusu Thoronka, the 41 year-old trader shown in the pictures, is among thousands of amputees living in Freetown, Sierra Leone today. She is struggling to support her family of six children on her own. Her husband is in a transition into another relationship and is distant from the family. Welfare services don't exist and no form of help comes from the government.

According to Mamusu: "On January 22, 1999 when the capital city Freetown was attacked by rebels, I attempted to take refuge in a building to escape their vengeance. But they found me, and put my hand on a table and were ready to cut it off with a machete like a butcher would sever animal meat. I begged for mercy asking them to respect God and me, being His child. They told me to point to God with my right hand which they also tried to chop off. They tried three times but failed; the hand of God probably helped or saved me. I still can't use three fingers on my right hand."

"The rebels said that I should get another hand from President Kabba, who had several to spare. I was in agony and the thought of death crossed my mind. I was later taken to hospital but the doctors, too, had fled for their lives. Freetown was infested with hundreds of corpses scattered all around its perimeter. My dangling left hand held by a film of skin had begun to decay. It took a week before I was able to see a doctor who treated my wounds."

"My husband is still distant; I'm sure he has another wife without my knowledge. I persevere to support my children by buying goods like palm-oil in the countryside to resell in Freetown. My responsibility is too much for me. I cannot afford to pay school fees for my six children, as the fees are beyond my reach. I'm appealing for help from the international world, as my two oldest children have dropped out of school."

With her tenacious spirit Mamusu refuses to give up her fight for survival or self-sufficiency. She does cross-border trade between Guinea and Sierra Leone. In Guinea goods are cheaper but a recent embargo put on Guinean goods could threaten her future. She still sells vegetables, such as beans, to enable her to buy clothes and household necessities for her large family. Goods and service are now going at more "cut throat" prices upcountry than in Freetown. Mamusu also rears a few chickens for subsistence and sometimes sells some.

"Rebels have threatened to end our lives," she said. "They say, if the government will not stop talking about amputees and the rebel atrocities that created them, they will get rid of us all. I fear the advent of another war."

Mamusu keeps the welfare of her children paramount in her mind. She is not seeking vengeance or retribution towards her assailants, but instead has offered forgiveness to them, despite the institution of the War Crimes Court to help bring justice to people like her.

"I want someone to take care of my children," she declared. "The former rebel fighters are being well looked after, with skills training and free education for their children. The Truth and Reconciliation Commission said we amputees should get a pension but we have seen nothing." It was a Norwegian charity that helped to house her.

She continued: "There is discrimination against amputees at all levels. I cannot cook for myself; I have to direct my daughter Bonki to do the cooking for me. When my children run into disagreements in school their peers tell them, 'Your mother is a half-person.' It is so demeaning and painful for me since I'm a victim of my circumstance. We amputees are really discriminated against in Sierra Leone."

Tamba Ngaujah has a similar story to tell the world, but lacks the megaphone to communicate to the international community his destitution and abandonment by the society that he once served. He had enlisted in the Republic of Sierra Leone Military Forces (RSLMF) to defend his country against all internal and external aggressions, serving his country diligently and honestly to the best of his ability. When other soldiers defected from the army, he stayed on.

It was in his line of duty that he was captured by the rebels, at the genesis of the warfare in 1991. Tamba suffered double amputation in captivity, becoming the first among thousands of amputees. After surviving his ordeal he was kicked out of the Wilberforce Barracks where he lived in the military quarters. It was during the heavy rainy season when massive flooding is common. His condition did not deter military officials from putting out an evacuation order on his apartment.

Tamba is now languishing in the streets with his family parading as beggars. No plans have been made to provide him with alternative accommodation. He is appealing to the international community to at least provide him a shelter, considering his current status.

Help for amputees does not seem to be moving on a fast track. There are many NGO's in Sierra Leone, but aid received through them does not appear to trickle down fast enough. It's a deplorable situation. The Human Rights Declaration and The Truth and Reconciliation do not seem applicable to them. Even though a recent United Nations assessment gave Sierra Leone high marks for keeping the peace, a nation that does not take care of its disabled or less fortunate subjects is doomed.

A comprehensive read on the Sierra Leone civil war and its effects on other ordinary people can be found in my book: "[Harvest of Hate: Stories and Essays 'Fuel for the Soul'.](#)" An extract, "[Harvest of Hate- Mary's Saga](#)" has been published on Wordpress.org.

### **Photo-journal: Sierra Leone Amputee**

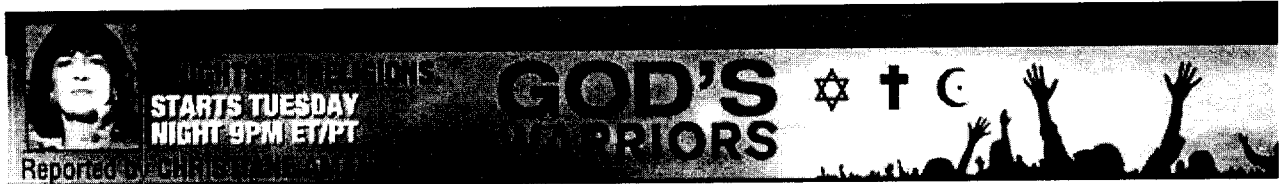
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**G. Sierra Leone Amputees in a League of Their own (CNN), 3 April 2006**

*Prosecutor v. Fofana, Kondewa, SCSL-04-14-T*



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## Sierra Leone amputees in a league of their own

### Injuries sustained in civil war haven't kept soccer players off field

By Jeff Koinange  
CNN

*Editor's note: In our Behind the Scenes series, CNN correspondents share their experiences covering news around the world.*

**FREETOWN, Sierra Leone (CNN) -- It's 8 a.m., and a soccer game is under way on a makeshift field by the exotic beaches of Sierra Leone, along the Atlantic Ocean.**

But it's no ordinary soccer game, for every one of the players on the six-a-side practice session is missing a leg or an arm or both.

They're all amputees, victims of the West African country's brutal decadelong civil war that cost up to 50,000 lives and left a nation of armless and legless victims. The conflict ended in 2002, but so many people are missing limbs that there is a full-fledged national soccer league for amputees. It has about a dozen teams, with legless field players and handless goalies.

Players struggle as they hobble on crutches and fight for ball possession. But some, such as 19-year-old Amadu Kamara, show amazing dexterity when it comes to ball and body control. Then again, he should.

Kamara was a budding high school soccer star when the civil war was at its height. One day, when fleeing from the rebels, a bullet hit him in the thigh. He was found three days later by government troops who took him to a local hospital.

Doctors didn't have the equipment or drugs to treat him and decided to amputate his leg, cutting short his career. He lay depressed for two months.

Seven years later, he's on the beach on crutches, maneuvering his way past other players while dribbling the ball.

"The civil war was terrible," Kamara says. "It's reduced us to a nation of beggars ... one-armed and one-legged beggars."

He is referring to the thousands of amputees who've made this country's busy thoroughfares their homes, begging for alms from sympathetic motorists and passers-by.

### Many lost limbs

One of those amputees is Suleiman Sesay, who says he vividly remembers the day the rebels invaded his city.

Sesay says they rounded up him and other teens and took them to their stronghold, miles away. They were given chores -- collecting firewood, fetching water, cooking and cleaning. They worked for days on end with little food.

One day, Sesay says, he and his friends refused to do a chore, so the rebels decided to make examples of them. The rebels took them outside and in front of everyone grabbed axes and machetes and started hacking at their limbs.

"They gave us a choice," he says. "Do you want short sleeves or long sleeves?"

He says he didn't know what the question meant and even thought it was a joke. He took a gamble and said short sleeves.

"They chopped my arm at the elbow," he says. "Six swings and my arm came off."

His friend Ali had chosen long sleeves, and his hand was hacked at the wrist. And on it went until all 12 teens had their limbs severed.

"My other friend, Mohammed, a very good soccer player, had his leg chopped off," Sesay says. "The rebels said they'd done it deliberately so he could never play again. Mohammed bled to death some hours later."

## Some blame Taylor

Abu Sesay (unrelated to Suleiman) was 2 months old when the rebel onslaught came to his village. His father took off with Abu on his back. The rebels' bullets cut short his run. They shattered Abu's leg and killed his father instantly.

Abu was tossed into the bushes and discovered two days later. By that time, gangrene had set in, and his leg had to be amputated.

Seven years later, Abu sits by the step of his mother's house watching his siblings play. Kadiatu Sesay says she wishes her son could be a normal kid like her other children.

"I can't even afford to pay school fees or indeed feed my children, let alone buy Abu a prosthesis."

I ask Abu if he's ever heard of Charles Taylor, former president of Liberia, a neighboring country. Taylor sits in a jailhouse here in Freetown.

Taylor is accused of countless atrocities in Sierra Leone, including aiding the rebel movement that spurred this nation's civil war and hacked off the limbs of many of its people. Taylor stands accused by a Sierra Leone special court of war crimes and crimes against humanity. He has pleaded not guilty.

Merely 7, Abu knows about Taylor and has a definite opinion of him: "I wish I could use a bullet on him the same way one was used on me. I've never met Charles Taylor, but I know he's a bad man."

As I watch the amputees play soccer by the Atlantic, my thoughts turn to Taylor and his alleged victims. This isn't the way soccer was meant to be played, but don't tell that to these incredibly determined young men.

### Find this article at:

<http://edition.cnn.com/2006/WORLD/africa/04/03/btsc.koinange/index.html>

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**H. A Tale of Three Amputees (allAfrica.com), 14 May 2002**



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## A Tale of Three Amputees

**allAfrica.com**

NEWS

14 May 2002

Posted to the web 14 May 2002

By Ofeibea Quist-Arcton  
Freetown, Sierra Leone

Lamin is ready to forgive, but not forget. Ishmael will never forget and is not prepared to forgive. Finna appears to have other things on her mind on election day in Sierra Leone.

All three lined up on Tuesday in the Sierra Leonean capital, Freetown, to cast their votes in the historic presidential and parliamentary polls.

Lamin Jusu Jarka, 43, Ishmael Daramy, 42, and Finna Kamara, 33, all have one thing in common. They were the victims of Revolutionary United Front (RUF) rebels in Sierra Leone's 10-year civil war. They all had their hands chopped off in 1999. They are all residents of the Aberdeen Road Amputee Camp in Freetown.

Unlike other amputees, none of the three was given the choice of what version of 'cut arm' or 'cut hand' they wanted - long sleeves or short sleeves.

They were punished by the rebels for different reasons. Lamin had his two arms hacked off, he says, because he refused to surrender his daughter to the rebels and encouraged her to escape through a back window. They wanted to teach him a lesson, attacking him and leaving him for dead. Lamin told allAfrica.com he could not willingly have handed over his daughter to be raped and possibly killed, during an orgy of rebel atrocities when they attacked Freetown in 1999.

An unforgiving Ishmael says he was maimed in the same 1999 rebel raid on the capital. The rebels told him they were chopping off his two hands to prevent him from ever again using them to vote for "democracy for that man Kabbah" (the leader of the governing Sierra Leone People's Party who is standing for re-election and a second term).

Finna lost her left hand, and almost her life, because she did not have money to give to the rebels to stop them. She says she went to her farm to plant groundnuts and on her return found the rebels, firing off loud shots and making demands.

For good measure they stole her cassette-radio and cut off the hand of her daughter, Damba

Koroma, then a mere six years old, "under the giant cotton tree" Finna recalls, in Kabala, in the north.

Machetes and knives were the rough weapons of choice used by the rebels - including child fighters - for their summary amputations.

Finna, Ishmael and Lamin are just three among hundreds of amputees in Sierra Leone who had their hands, fingers, arms, legs and, in some cases noses, severed from their bodies. They remain a visible, potent and poignant reminder of the barbaric nature of the conflict in Sierra Leone that raged for a decade and claimed tens of thousands of civilian lives.

The amputees are also a symbol and permanent legacy of the horrors of a rebellion where the different factions transformed children into fighters and killers, raped old and young women and turned girls into sex slaves. Other civilians were forced to take up arms.

Special provision was made by the Sierra Leonean authorities for amputees and the blind to vote in the first democratic poll since the war formally ended in January.

At their UN-sponsored amputee camp in Freetown, Finna, Ishmael, Lamin, and the other with missing limbs, were allowed to vote ahead of a throng of other enthusiastic voters queuing in their hundreds to choose a new president and 112 parliamentarians.

The former rebels, transformed into the Revolutionary United Front political party, RUFF, are fielding a presidential candidate and potential MPs in the elections in Sierra Leone.

The outgoing leader, Kabbah, 70, is one of nine presidential hopefuls, including one woman, Zainab Hawa Bangura of the Movement for Progress (MoP party). Analysts say Kabbah stands a good chance of winning, if he can gain the required 55 percent in the first round.

If not, Kabbah could face stiff competition in a second round run-off, most likely from the former ruling All People's party (APC) candidate, Ernest Bai Koroma, especially if his rivals form a political alliance.

Kabbah's supporters hail the president who they say helped to restore peace in Sierra Leone, invited the United Nations' peacekeepers into their country and ended the war.

His critics have accused Kabbah's SLPP of intimidating would-be voters from opposition parties and preventing them from campaigning freely throughout the country.

Lamin, who is a chief organizer at the Aberdeen Road amputee camp, chose not disclose who he was voting for.

But Ishmael was quite open and forthright. "I have come to vote to choose my good leader, President Kabbah. Kabbah is my president," he said simply, with a laugh. He added that he had triumphed over the rebels because, although he had no hands to vote, he was still able to cast his ballot for democracy.

Ishmael, who comes from Kono District in eastern Sierra Leone, a region devastated by the rebellion, said: "I believe this is good for the people of Sierra Leone, because this is a peaceful election in Sierra Leone this year".

But he told allAfrica.com indignantly that the rebels would never get his vote - nor the support of most Sierra Leoneans - because of the harm they had done to their country.

"They cut off my hands and told me that I couldn't vote for democracy anymore. They don't like democracy. They told me to go to Kabbah to give me new hands or to the international community to give me hands. I suffered for democracy, so I have to support democracy until the end of my life."

Ishmael is not very confident about the future of his country or the process of unifying the divided nation and bringing some understanding between former rebels and their victims.

"I cannot talk about reconciliation, because it is very difficult. The TRC [the planned Truth and Reconciliation Commission in Sierra Leone] may have worked in South Africa, but when you look at the situation in Sierra Leone compared with South Africa, it is so different. In Sierra Leone we had amputations, in South Africa they did not," said Ishmael.

Ishmael said he knew the rebel, the "young boy" as he calls him, who cut off his hands, and was finding it difficult to forgive him. "It is not easy to reconcile with someone who amputated you. It is not easy to forgive. Everyday I have my pain. I am suffering. Who can educate my five children? Who can take care of my wife? Nothing can convince me to forget. Nothing. I can't forget. Everyday I have my pain. How can I forget? It's not easy to forget, it's not easy to forgive."

But Lamin, the camp organizer, talked positively about how the elections represented a new start for Sierra Leone. "It is going to be a new beginning of life because, compared to the previous ten years of war that has taken place in this country, people are looking forward to reinstating a new democratic government which will be able to address the issues of the people of this country."

He and the other amputees are appealing to Sierra Leone's new leaders to help them. "Right now we don't have any assistance," said Lamin.

Lamin painstakingly used his prosthetic arms, with two pincer-fingers, to remove his voting card from his pocket and present it to election officials in the polling station (Finna and Ishmael are so far without prostheses).

Lamin then lifted his foot onto the table for the nail of his big toe to be painted with indelible ink. Normally voters have their left thumb daubed with the ink.

In front of flashing camera lights, and scribbling reporters, Lamin carefully placed his toe on an ink pad and placed a 'toe print', rather than a thumb print, against the presidential candidate of his choice, after which he neatly folded the ballot paper with his pincers.

Mission accomplished, with a big smile and sweating profusely from the exertion, Lamin looked up proudly and triumphantly, telling journalists: "I used to vote with my hands, I did it today with my toe." He said he was 'happy' at having voted and gave a victorious 'thumbs up' with his false arms.

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Annex G

**BBC News, “Huntley Should Die Behind Bars”**



## Huntley 'should die behind bars'

**Soham murderer Ian Huntley should die in jail because the "public would expect that", the Lord Chancellor Lord Falconer has suggested.**

In a Sunday Telegraph interview, he said Huntley was among a category of killers who should never be freed.

Society requires "retribution" in such cases and needs to have confidence in the criminal justice system, he added.

Huntley, 33, got a 40-year minimum sentence in 2003 for the 2002 murders of Holly Wells and Jessica Chapman.

### HAVE YOUR SAY

**I think sentences should be proportional to the severity of the offence and should not pander to populist demands**

Duncan, Oxford

The Lord Chancellor's remarks follow a row prompted by the Lord Chief Justice's support for an end to mandatory life terms for murderers.

"There will be some people who I think should stay in prison for the rest of their natural life," Lord Falconer told the paper.

"They should still stay in because the heinousness of their crime means that the public would expect that.

"(Lord Phillips) referred to geriatric lifers - well, there will be some and I think if you want confidence in the system that's got to be the position."

Lord Falconer also cited the case of another child killer, Robert Black, who was jailed for a minimum of 35 years in 1994 and that of Moors murderer Ian Brady, serving a "whole life" tariff.

He said they were "three obvious examples" of people who should never be released.

"It is both because of dangerousness but it is also because society does require retribution in those sorts of cases and if it doesn't get it then people will not be confident of the criminal justice system."

Lord Falconer said low-level offenders with alcohol and drugs problems could serve reduced jail terms if they were better treated and properly monitored in the community.

"The right course is to take every step necessary to make sure they don't reoffend which may

involve shorter sentences," he said.

In a speech at the University of Birmingham earlier this month, Lord Chief Justice Lord Phillips said prisons risked becoming "full of geriatric lifers" in future.

He said government guidelines were "ratcheting up" the length of time some murderers would spend in prison.

But the most senior judge in England and Wales did not mention any individual cases by name in the speech.

Health Secretary Patricia Hewitt told ITV's Sunday Edition programme that it was not for ministers to decide the timing of a prisoner's release.

But she added: "I have to say as a mother myself I would absolutely echo Charlie Falconer's view."

Story from BBC NEWS:  
<http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk/6463337.stm>

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