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SCSL-2004-15-T  
(9194 - 9244)

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**SPECIAL COURT FOR SIERRA LEONE**

OFFICE OF THE PROSECUTOR

FREETOWN – SIERRA LEONE

Before: Judge Benjamin Itoe, Presiding Judge  
Judge Bankole Thompson  
Judge Boutet

Registrar: Mr. Robin Vincent

Date filed: 8 October 2004

**THE PROSECUTOR**

**Against**

**ISSA HASSAN SESAY  
MORRIS KALLON  
AUGUSTINE GBAO**

**Case No. SCSL – 2004 – 15 – T**

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**PROSECUTION RESPONSE TO THE “MOTION ON ISSUES OF URGENT CONCERN  
TO THE ACCUSED MORRIS KALLON”**

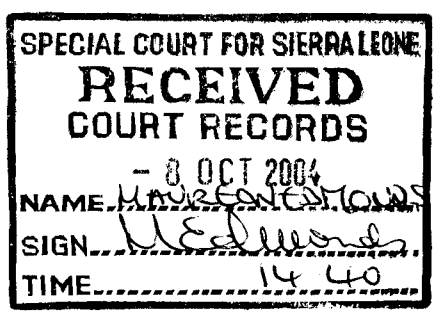
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**Office of the Prosecutor**  
Luc Côté  
Lesley Taylor  
Marie-Hélène Proulx

**Defence Counsel for Issa Sesay**  
Wayne Jordash

**Defence Counsel for Morris Kallon**  
Shekou Touray  
Melron Nicol-Wilson

**Defence Counsel for Augustine Gbao**  
Andreas O’Shea  
John Cammegh



**SPECIAL COURT FOR SIERRA LEONE**

OFFICE OF THE PROSECUTOR

FREETOWN-SIERRA LEONE

**THE PROSECUTOR**

**Against**

**ISSA HASSAN SESAY**

**MORRIS KALLON**

**AUGUSTINE GBAO**

**Case No. SCSL – 2004 – 15 – T**

---

**PROSECUTION RESPONSE TO THE “MOTION ON ISSUES OF URGENT CONCERN  
TO THE ACCUSED MORRIS KALLON”**

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The Prosecution files this response to the Defence “Motion on Issues of Urgent Concern to the Accused Morris Kallon”, dated 1 October 2004 (the “Defence Motion”), on behalf of Morris Kallon (the ‘Accused’), which requests the Trial Chamber to issue an order staying the original indictment and an order to the effect that the Accused is not properly arraigned before the Court to proceed with his trial on the Amended Consolidated Indictment.

**I. BACKGROUND**

1. On 7 March 2003, Judge Bankole Thompson approved the indictment against the Accused. The Accused made his initial appearance on 21 March 2003 before Judge Itoe, and pleaded not guilty to 17 counts of war crimes and crimes against humanity.
2. On 9 October 2003, the Prosecution filed a document entitled “Prosecution Motion for Joinder”, requesting the Trial Chamber to join the trials of Issa Hassan Sesay, Augustine Gbao, Alex Tamba Brima, Brima Bazzy Kamara, Santigie Borbor Kanu and the Accused. The Prosecution further requested that the indictments against the six accused be consolidated into a single indictment.

3. On 27 January 2004, the Trial Chamber issued its “Decision and order on Prosecution Motions on Joinder”, (the “Joinder Decision”) allowing the Prosecution to join the cases against Issa Hassan Sesay, Augustine Gbao and the Accused, and ordering that a single consolidated indictment (the “Consolidated Indictment”) be prepared as the indictment on which the joint trial shall proceed. The Chamber further ordered that the Consolidated Indictment be served on each accused in accordance with Rule 52 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (the “Rules”).
4. On 5 February 2004, the Prosecution filed the Consolidated Indictment and served it to Defence Counsel on the same day.<sup>1</sup>
5. On 9 February 2004, the Prosecution filed a “Request for Leave to Amend the Indictment” (the “Prosecution Request”), requesting the Trial Chamber to allow the Prosecution to add new counts to the indictment, and issue orders to have the amended indictment approved.
6. On 10 February 2004, the Accused filed a “Motion for Quashing Consolidated Indictment” seeking that the Consolidated Indictment be quashed and a new consolidated indictment be consequentially filed.
7. On 13 February 2004, the Prosecution filed its “Prosecution Response to Defence Motion for Quashing Consolidated Indictment”.
8. On 21 April 2004, the Trial Chamber issued its “Kallon – Decision on Motion for Quashing of Consolidated Indictment” dismissing the motion of the Accused and holding that the additional allegations particularised in the Bills of Particulars put all three Accused on notice as to additional incidents or events in respect of which the Prosecution may be adducing evidence at trial.
9. On 6 May 2004, the Trial Chamber issued its “Decision on Prosecution Request for Leave to Amend the Indictment”, granting the Prosecution Request.
10. On 12 May 2004, the Trial Chamber issued a “Consequential Order and Corrigendum to the Decision on Prosecution Request for Leave to Amend the Indictment” (the

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<sup>1</sup> See Proof of Service attached.

“Consequential Order”), *inter alia* instructing the Registrar to prepare a certified copy of the Amended Consolidated Indictment and to serve it to the Accused persons.

11. On 13 May 2004, the Prosecution filed the “Amended Consolidated Indictment” and served it to Defence counsel on the same day.<sup>2</sup>
12. On 17 May 2004 the Accused appeared before Judge Boutet in a Further Initial Appearance and was arraigned on the Amended Consolidated Indictment.
13. On 1 October 2004, the Accused filed a “Motion on Issues of Urgent Concern to the Accused Morris Kallon” (the “Accused’s Motion”), requesting the Trial Chamber to issue an order staying the original indictment and an order to the effect that the Accused is not properly arraigned before the Court to proceed with his trial on the amended consolidated indictment.

## II. SUBMISSIONS OF THE ACCUSED

14. In his motion, the Accused submits that, contrary to the Consequential Order contained in the Joinder Decision, the Consolidated Indictment was never served on him.<sup>3</sup>
15. The Defence Motion asserts that service of the Amended Consolidated Indictment was refused on Sunday 16 May 2004 on the grounds that Sunday is *dies dominicus non est iudicis*; that there has been no further attempt to serve the Amended Consolidated Indictment; and, when he appeared in court on 12 May 2004 (sic)<sup>4</sup>, the Accused raised “at the earliest opportunity” the issue of want of service. The Defence Motion further states that the Accused refused to plead to the new Count and the Presiding Judge recorded a plea of not guilty on his behalf.<sup>5</sup>
16. In paragraph 16 of the Defence Motion, it is submitted that “[p]ersonal service on the Accused [...] is not synonymous with service on Counsel [...]”. In consequence, the

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<sup>2</sup> See Proof of Service attached.

<sup>3</sup> Defence Motion, para. 5.

<sup>4</sup> The Further Initial Appearance took place on 17 May 2004, not 12 May 2004 as stated in paragraph 9 of the Defence Motion.

<sup>5</sup> Defence Motion, paragraphs 8 and 9.

Accused submits that “the want of service of the Consolidated Indictment and the Amended Consolidated Indictment is fatal to the proceedings.”<sup>6</sup>

### III. ARGUMENTS

17. The Prosecution submits that the motion should be dismissed in its entirety. The Amended Consolidated Indictment has been served and the Accused has been arraigned thereon.

#### Service of the Amended Consolidated Indictment

18. The submissions of the Accused as outlined above omit any reference to the decision of Judge Boutet on 17 May 2004 that service of the Amended Consolidated Indictment had been deemed to have been effected personally on 16 May 2004.<sup>7</sup>

19. During the hearing on 17 May 2004 Mr. Dolphin of Court Management gave evidence as to the attempted service of the Amended Consolidated Indictment on 16 May 2004. Counsel for the Accused then sought “guidance”<sup>8</sup> from the Presiding Judge as to whether it was proper for a document to be served on a Sunday. The Presiding Judge then referred Counsel for the Accused to Rule 52 of the Rules of Procedure and Evidence and said:

*... “there is no, I underline “no” limitation is imposed as to when service can be effected whether it’s on a Monday, a Saturday or a Sunday. What is provided for is that service shall be done as soon as possible thereafter.*

*Given what I have heard, and the information provided to the Court, I would, in those circumstances, deem the services to have been personally effected in their own language on each and every one of the these Accused; that is, Sesay, Kallon and Gbao. So for the purpose of these proceedings this morning, it would be deemed to have been served in their own language with the amended consolidated indictment. Thank you.*

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<sup>6</sup> Defence Motion, para. 19.

<sup>7</sup> Further Initial Appearance, transcript 17 May 2004, p. 8, lines 12-16.

<sup>8</sup> Further Initial Appearance, transcript 17 May 2004, p. 7, lines 2-10.

*So we will now proceed with the appearance on the new count but I will ask the Court to read the consolidated indictment in total and when we get to the new count, I will ask you to stop at that time and read that count for each and every one – every accused and at that time, I will ask them to plead to that specific count.”<sup>9</sup>*

#### Arrestment of the Accused on the Amended Consolidated Indictment

20. The Amended Consolidated Indictment was then read and when Count 8 was reached the Presiding Judge asked each accused to enter a plea to the new count.<sup>10</sup> The Accused stated that he was not prepared to enter a plea until he received “feedback from the submission of the Supreme court of Sierra Leone”.<sup>11</sup> The Presiding Judge then stated that pursuant to the Rules of Procedure and Evidence it would be deemed that the Accused had entered a plea of not guilty to that specific count.<sup>12</sup>

#### Arguments Concerning Service and Arrestment

21. The Prosecution submits that the record of the proceedings on 17 May 2004 make it plain that the “urgent concerns” numbered i to iii inclusive in paragraph 1 of the Defence Motion are unfounded. The Prosecution further submits that it is improper for the Accused to raise in a motion more than 4 months after the fact what is, in effect, an attack on the decision of Judge Boutet as to the interpretation of Rule 52. This is especially so considering that the Defence Motion asserts that the alleged want of service of the Consolidated Indictment and the Amended Consolidated Indictment is “fatal” to the proceedings in circumstances where the Trial Chamber has heard the evidence of 12 witnesses. These witnesses, some of whom gave evidence relevant to the additional count of Forced Marriage<sup>13</sup>, were cross examined by counsel for the Accused. In doing so counsel for the Accused did not demur from the position that the trial was proceeding on the basis of the Amended Consolidated Indictment.

<sup>9</sup> Further Initial Appearance, transcript 17 May 2004, p. 8, lines 7-21.

<sup>10</sup> Further Initial Appearance, transcript 17 May 2004, p. 18 line 26 to p 19 line 1.

<sup>11</sup> Further Initial Appearance, transcript 17 May 2004, p. 22, lines 17-20.

<sup>12</sup> Further Initial Appearance, transcript 17 May 2004, p. 22, lines 24-26.

<sup>13</sup> See for example the evidence of witness TF1-199, transcript 20 July 2004, p. 25 and witness TF1-217, transcript 22 July 2004, p. 11-12.

No Prejudice in Any Event

22. Even if there had been a failure of service of the Consolidated Indictment or the Amended Consolidated Indictment the Accused has not established any identifiable prejudice.
23. First, the Consolidated Indictment contains no additional charges. Indeed the Trial Chamber found that the Accused “legally [stood] to benefit from the nature and extent of the degree of particularity” of the Consolidated Indictment.<sup>14</sup>
24. Second, notwithstanding the fact that it does contain a single additional charge, the Amended Consolidated Indictment is not substantially different from the Consolidated Indictment. Indeed, in approving the Amended Consolidated Indictment the Trial Chamber observed that the additional count concerning Forced Marriage was a “‘kindred offence’ to those that exist in the consolidated indictment in the view of the commonality of the ingredients needed to prove offences of this nature.”<sup>15</sup>
25. Third, both the Consolidated Indictment and the Amended Consolidated Indictment were served upon Counsel representing the Accused. Moreover, in accordance with Rule 50(B) of the Rules and as outlined above, the Accused made his initial appearance on the Amended Consolidated Indictment.

A Stay of the Original Indictment is Unnecessary

26. The Accused seeks an order staying the Original Indictment. In accordance with legal principles, trial on a subsequent indictment prevents retrial on a former indictment. An order for a stay of the Original Indictment, or indeed the Consolidated Indictment, is unnecessary. Therefore the Prosecution submits that the “urgent concern” numbered iv in paragraph 1 of the Defence Motion is unfounded.

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<sup>14</sup> *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-PT, Kallon – Decision on Motion for Quashing of Consolidated Indictment, 21 April 2004, paragraph 21.

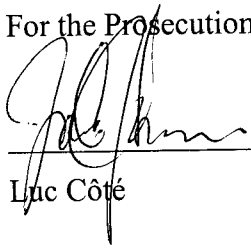
<sup>15</sup> *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-PT, Decision on Prosecution Request for Leave to Amend the Indictment, 6 May 2004, paragraph 51.

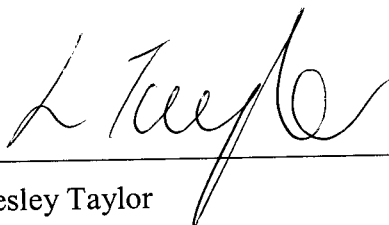
#### IV. CONCLUSION

27. For the foregoing reasons, the Prosecution submits that the Defence Motion should be dismissed.

Freetown, 8 October 2004

For the Prosecution,

  
\_\_\_\_\_  
for Luc Côté

  
\_\_\_\_\_  
Lesley Taylor



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**ATTACHMENT**

1. Proof of service dated 5 February 2004.

2. Proof of service dated 13 May 2004.

**PROSECUTION INDEX OF AUTHORITIES**

1. *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Kallon – Decision on Motion for Quashing of Consolidated Indictment, 21 April 2004, paragraph 21.
2. *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Decision on Prosecution Request for Leave to Amend the Indictment, 6 May 2004, paragraph 51.
3. *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Transcript of 17 May 2004.
4. *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Transcript of 20 July 2004.
5. *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Transcript of 22 July 2004.

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Attachment 1: Proof of service dated 5 February 2004

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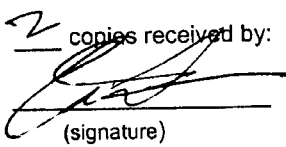
SPECIAL COURT FOR SIERRA LEONE

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COURT SERVICE – FORM 3 – PROOF OF SERVICE IN FREETOWN

Date: 5-02-2004		Case Names: The Prosecutor V: <u>Issa Hassan Sany &amp; Dots</u>	
		Case No. s <u>SCSL-2004-15-PT.</u>	
To: A:	<input checked="" type="checkbox"/> TRIAL CHAMBER		<input type="checkbox"/> APPEALS CHAMBER
	<u>2</u> copies received by:  (signature)		____ copies received by: _____ (signature)
	For onward transmission to: <input type="checkbox"/> Judge B. THOMPSON, Presiding <input type="checkbox"/> Judge ITOE <input type="checkbox"/> Judge BOUTET <input type="checkbox"/> Legal Officer <input type="checkbox"/> By Fax: See CS Form 3F		For onward transmission to: <input type="checkbox"/> Judge G. ROBERTSON, President <input type="checkbox"/> Judge R. WINTHER <input type="checkbox"/> Judge AYOOLA <input type="checkbox"/> Judge G. KING <input type="checkbox"/> By Fax: See CS Form 3F
	OFFICE OF THE PROSECUTOR Trial Attorney in charge of case: _____, received by _____		
<input type="checkbox"/> DEFENSE			
<input type="checkbox"/> Accused: See CS 2 Form			
<input type="checkbox"/> Defence Office: _____			
<input type="checkbox"/> Counsel: _____			
<input type="checkbox"/> For onward transmission to counsel			
<input type="checkbox"/> <u>ATTORNEY GENERAL</u> <u>4/2/04</u>			
1. <input checked="" type="checkbox"/> In Freetown <u>Mr. S. Kamal</u>		2. <input checked="" type="checkbox"/> <u>Clemo Thompson</u>	
3. <input checked="" type="checkbox"/> <u>Mr. N. Wilson</u> <u>Nicole-Wilson</u>		4. <input type="checkbox"/> In Freetown _____	
5. <input type="checkbox"/> _____		6. <input type="checkbox"/> _____	
All Decisions & Imp. Public Docs: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Court Library			
From:	<input type="checkbox"/> Listing Officer	<input type="checkbox"/> Court Officer	<input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Registrar
CC:	<input type="checkbox"/> Registrar	<input type="checkbox"/> Deputy Registrar	<input type="checkbox"/> Chief WVSS <input type="checkbox"/> Chief of Security
Subject	Kindly find attached the following documents:		

Document's Title

Indictment

Date filed

5-2-04

Pages

21

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Attachment 2: Proof of service dated 13 May 2004

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9207



**SPECIAL COURT FOR SIERRA LEONE**

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

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**COURT SERVICE – FORM 3 – PROOF OF SERVICE IN FREETOWN**

Date: <b>13-5-2004</b>		Case Names: The Prosecutor V: <b>ISSA SESAY et al 2025</b>	
		Case No. <b>SCSL-2004-15-PT. (122)</b>	
To: A:	<input checked="" type="checkbox"/> TRIAL CHAMBER		<input type="checkbox"/> APPEALS CHAMBER
	<u>2</u> copies received by: <u>B. Meeley</u> (signature)		____ copies received by: _____ (signature)
For onward transmission to:		For onward transmission to:	
<input type="checkbox"/> Judge B. THOMPSON, Presiding		<input type="checkbox"/> Judge G. ROBERTSON, President	
<input type="checkbox"/> Judge ITOE		<input type="checkbox"/> Judge R. WINTHER	
<input type="checkbox"/> Judge BOUTET		<input type="checkbox"/> Judge AYOOLA	
<input type="checkbox"/> Legal Officer		<input type="checkbox"/> Judge G. KING	
<input type="checkbox"/> By Fax: See CS Form 3F		<input type="checkbox"/> By Fax: See CS Form 3F	
<b>OFFICE OF THE PROSECUTOR</b>			
Trial Attorney in charge of case: _____, received by _____			
<input type="checkbox"/> DEFENSE			
<input type="checkbox"/> Accused: See CS 2 Form			
<input type="checkbox"/> Defence Office: _____		<input type="checkbox"/> For onward transmission to counsel	
<input type="checkbox"/> Counsel: _____			
1. <input checked="" type="checkbox"/> In Freetown	<u>Steele</u>	2. <input checked="" type="checkbox"/> <u>Watts</u>	3. <input type="checkbox"/> _____
<u>Mr. Sheku Turay</u>		<u>Mr. Serry-Kamul</u>	
4. <input type="checkbox"/> In Freetown	5. <input type="checkbox"/> _____	6. <input type="checkbox"/> _____	
All Decisions & Imp. Public Docs:		<input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Court Library	
From:	<input type="checkbox"/> Listing Officer <input type="checkbox"/> Court Officer <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Registrar		
CC:	<input type="checkbox"/> Registrar <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Chief WVSS <input type="checkbox"/> Chief of Security		
Subject	Kindly find attached the following documents:		

Document's Title	Date filed	Pages
<b>Amended Consolidated Indictment</b>	<b>13-5-04</b>	<b>6181-6202</b>

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Annex 1: *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Transcript of 17 May 2004.

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL-2004 -15-I  
CHAMBER I

THE PROSECUTOR  
OF THE SPECIAL COURT  
v.  
ISSA HASSAN SESAY  
MORRIS KALLON  
AUGUSTINE GBAO

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01209

17 MAY 2004  
1010H  
FURTHER INITIAL APPEARANCE

Before the Judge:

Pierre Boutet, Presiding

For the Registry:

Ms. Maureen Edmonds  
Mr. Geoff Walker

For the Prosecution:

Ms. Sharan Parmar  
Mr. Abdul Tejan-Cole

For the Accused Issa Hassan Sesay:

Ms. Haddijatou Kah-Jallow

For the Accused Morris Kallon:

Mr. Melron Nicol-Wilson

For the Accused Augustine Gbao:

Ms. Glenna Thompson

Court Reporters:

Mr. Momodou Jallow  
Ms. Gifty C. Harding

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT RECORDS	
NAME	Geoff Walker
SIGN.	<i>[Signature]</i>
TIME	16.56



1 MS. EDMONDS:

2 Amended consolidated indictment. The Prosecutor against Issa Hassan Sesay, Morris Kallon,  
3 Augustine Gbao, Case Number SCSL 2004-15-PT

4 MR. PRESIDENT:

5 Good morning. May I have representation please.

6 MS. PARMAR:

7 Your Honour, Sharan Parmar and Abdul Tejan-Cole for the Prosecution.

8 MR. PRESIDENT:

9 Thank you. For the Accused.

10 MS. THOMPSON:

11 Glenna Thompson for Mr. Gbao.

12 MR. PRESIDENT:

13 Thank you.

14 MR. NICOL- WILSON:

15 Melron Nicol-Wilson for Morris Kallon.

16 MR. PRESIDENT:

17 Thank you.

18 MS. KAH-JALLOW:

19 Haddijatou Kah-Jallow for Mr. Issa Hassan Sesay.

20 MR. PRESIDENT:

21 Thank you.

22 Can we proceed to swear in the interpreters?

23 *(Interpreters sworn)*

24 MR. PRESIDENT:

25 Thank you. Is there any requirement to proceed with interpretation this morning? Defence Counsel  
26 for Sesay?

27 MS. KAH-JALLOW:

28 Your Honour, we would like interpretation into Krio.

29 MR. PRESIDENT:

30 What about the Accused, Kallon?

31 MR. NICOL-WILSON:

32 Your Honour, a similar request.

33 MR. PRESIDENT:

34 Counsel for the Accused, Gbao.

35 MS. THOMPSON:

36 Your Honour, the same request.

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1 MR. PRESIDENT:

2 Given that there have been some difficulties, I am made to believe, yesterday when interpreters tried  
3 to provide some assistance to these Accused. We will attempt to provide this service this morning. I  
4 am asking the interpreters to again sit with the Accused to provide this interpretation to them in their  
5 own language.

6  
7 But, however, should there be any difficulty of any nature we will have to find suitable and alternative  
8 ways of proceeding. Thank you.

9  
10 This morning we are proceeding with a further appearance of the Accused, and upon leave of the Trial  
11 Chamber, for the amendment of the Consolidated Indictment against them, and this is pursuant to  
12 Rule 50 of the Rules of Procedure and Evidence.

13  
14 All of these Accused have already held their initial appearances on the original Indictment and each  
15 and every one of them entered a plea of "not guilty" to each and every charge contained in the  
16 indictment therein.

17  
18 Following the addition of a new charge, the Accused now appear before this Court in order to enter a  
19 plea on this additional charge, pursuant to Rule 50 (B) (1) of the Rules.

20  
21 So although -- this morning, we will proceed to read the totality of the consolidated indictment because  
22 of the minor changes to some of the counts contained in the indictment, I will obviously ask each and  
23 every Accused in turn to plead to this new count, which is count No. 8 in the consolidated indictment.

24  
25 But before I do so, I would like to ask Counsel for the Accused if they have any comments to make at  
26 this particular moment. Counsel for Accused Sesay?

27 MS. KAH-JALLOW:

28 No, Your Honour. I would just like the Court to enquire from my client whether or not he can actually  
29 hear from the interpreter.

30 MR. PRESIDENT:

31 Can you -- are all of you able to hear what the interpreter is interpreting at this particular time?  
32 Accused Sesay.

33 THE ACCUSED SESAY:

34 Yes.

35 MR. PRESIDENT:

36 Accused Kallon?

37

1 THE ACCUSED KALLON:

2 Yes.

3 MR. PRESIDENT:

4 And Accused Gbao?

5 THE ACCUSED GBAO:

6 Yes.

7 MS. KAH-JALLOW:

8 Thank you, Your Honour.

9 MR. PRESIDENT:

10 So I take it that the each and every accused has been properly informed of his right, and secondly,  
11 their rights to be represented by counsel during this trial and at this particular period. So as we have  
12 counsel in court today for each and every one of them, I take it that this requirement has been  
13 satisfied. For the Accused, Sesay?

14 MS. KAH-JALLOW:

15 Yes, Your Honour, he has been informed.

16 MR. PRESIDENT:

17 Accused Kallon?

18 MR. NICOL-WILSON:

19 Yes, Your Honour, he has been informed.

20 MR. PRESIDENT:

21 And Gbao.

22 MS. THOMPSON:

23 He has been informed, Your Honour, yes.

24 MR. PRESIDENT:

25 Thank you.

26

27 I will ask you now, Counsel for Sesay first, if the Accused has been totally served with the amended  
28 indictment, the one we are proceeding with today?

29 MS. KAH-JALLOW:

30 Your Honour, my understanding is that there was an attempt made to serve my client with the  
31 indictment and unfortunately, they weren't successful.

32 MR. PRESIDENT:

33 They were --

34 MS KAH-JALLOW:

35 -- were not successful in interpreting the Indictment to my client.

36 JUDGE BOUTET:

37 You have been served with a copy as counsel for Sesay?

Q225

Q212

1 MS. KAH-JALLOW:

2 Yes.

3 MR. PRESIDENT:

4 Are you making an objection to the improper servicing or are you just making a comment?

5 MS. KAH-JALLOW:

6 No, I just want it on – I'm not making objection, My Lord, I'm just stating a statement of fact that an  
7 attempt was made and it is my understanding that they were unsuccessful in interpreting the  
8 indictment before him.

9 MR. PRESIDENT:

10 But if you are making a comment, I would like to know why, if you know, it's been unsuccessful  
11 because I would ask people from the Registry to come in and establish what happened.

12 MS. KAH-JALLOW:

13 Perhaps they could furnish me with more information because I only received information that there  
14 has been an unsuccessful attempt to serve my client this morning, five minutes before this sitting.

15 MR. PRESIDENT:

16 Very well. Can we ask the Court Management to come and tell us what happened, if he is available.

17 LEONARD DOLPHIN

18 first having been duly sworn,

19 testified as follows:

20 MR. PRESIDENT:

21 Thank you, very much. Would you please identify yourself for the record and state your exact position  
22 within the organization.

23 MR. DOLPHIN:

24 My name is Leonard Dolphin, Chief of Court Management, for the Registry.

25 MR. PRESIDENT:

26 Could you inform the Court as to any attempt you have made to serve documents, by documents  
27 here, I mean the amended consolidated indictment to the Accused Sesay, Kallon and Gbao.

28 MR. DOLPHIN:

29 Yes, Your Honour.

30 MR. PRESIDENT:

31 Could you please inform the Court of what you did and what were the result?

32 MR. DOLPHIN:

33 Yesterday morning I went to the detention centre, accompanied by interpreters, with copies of the  
34 amended consolidated indictment in English and translated into Krio and with audiotape recordings of  
35 the translated indictment and, unfortunately, the Accused refused to accept the documents from us.

36 MR. PRESIDENT:

37 When you say "Accused", can you state which accused you are talking about?

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C1 213

1 MR. DOLPHIN:

2 The main Accused that was making his views known vociferously was Mr. Gbao, but he was  
3 supported by Mr. Sesay and Mr. Kallon.

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4 MR. PRESIDENT:

5 And as a result of that, were you able to serve the documents?

6 MR. DOLPHIN:

7 We were not able to serve them. We had to withdraw from the detention facility.

8 MR. PRESIDENT:

9 Why was it that you had to withdraw at that time?

10 MR. DOLPHIN:

11 I felt that the Accused were acting in a threatening manner. Mr. Gbao was very excited and I thought  
12 it would be unwise to remain any longer.

13 MR. PRESIDENT:

14 So what you have to – you have attempted to do was to deliver a copy of the consolidated indictment  
15 in English, together with a copy in Krio?

16 MR. DOLPHIN:

17 Yes, My Lord.

18 MR. PRESIDENT:

19 When I say copy, was it a written or a taped copy?

20 MR. DOLPHIN:

21 Both, Your Honour.

22 MR. PRESIDENT:

23 It was a written copy?

24 MR. DOLPHIN:

25 Yes.

26 MR. PRESIDENT:

27 And a tape-recorded copy?

28 MR. DOLPHIN:

29 Yes.

30 MR. PRESIDENT:

31 So as you were unable to serve them personally with that, what did you do?

32 MR. DOLPHIN:

33 I still have the documents. We left the detention centre and I retained the documents and the  
34 audiotapes.

35 MR. PRESIDENT:

36 Thank you. You wish to ask questions?

37

1 MS. KAH-JALLOW:

2 Yes, My Lord. He just mentioned that he felt threatened, by whom My Lord? He wasn't specific and it  
3 was just a feeling, just a perception.

4 MR. DOLPHIN:

5 Mr Gbao approached me closely and his voice was raised quite highly when he was gesticulating  
6 towards me and that's why I felt threatened.

7 MS. KAH-JALLOW:

8 But with my other -- Mr. Sesay, I mean, there was no indication --

9 MR. DOLPHIN:

10 They were quite calm.

11 MS. KAH-JALLOW:

12 And yet, you still did not serve Mr. Sesay with the indictment?

13 MR. DOLPHIN:

14 They wouldn't take the indictment.

15 MS. KAH-JALLOW:

16 Thank you.

17 MR. PRESIDENT:

18 You were accompanied by interpreters at that time?

19 MR. DOLPHIN:

20 I was, Your Honour.

21 MR. PRESIDENT:

22 Were there any threats made to interpreters?

23 MR. DOLPHIN:

24 As we left, there were several things said in Krio to the interpreters and the interpreters believed that  
25 they were veiled threats. I believe what was said was that the Accused knew who the interpreters  
26 were and that they would have to meet at some later time after these proceedings were finished.

27 MR. NICOL WILSON:

28 Your Honour, I heard the Chief of Court Management say to this Court that he attempted to serve  
29 yesterday, on Sunday. I am saying in our jurisdiction it is not normal for service of court documents to  
30 be done on a Sunday.

31 MR. PRESIDENT:

32 What jurisdiction are you talking about?

33 MR. NICOL-WILSON:

34 In Sierra Leone, Your Honour.

35 MR. PRESIDENT:

36 So?

37

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1 MR. NICOL-WILSON:

2 So I want to seek your guidance as to whether it is proper for a court document to be served on  
3 Sunday.

4 MR. PRESIDENT:

5 But as you know we are not a court of Sierra Leone, we are the Special Court, and the Rules of Sierra  
6 Leone have no obligation to this Court.

7 MR. NICOL-WILSON:

8 As Your Honour, please. That is why I want to know whether the Special Court has the – whether  
9 process servers have a mandate to serve Special Court documents on Sundays because it is not  
10 quite clear in the Rules.

11 MR. PRESIDENT:

12 Very well, Thank you.

13 You wish to ask questions, Counsel for Gbao?

14 MS. THOMPSON:

15 Mr. Dolphin, you said Mr. Gbao threatened you?

16 MR. DOLPHIN:

17 I didn't say that. I said he raised his voice and, in a threatening manner, approached me.

18 MS. THOMPSON:

19 *(Inaudible)* You could have served them to him.

20 MR. DOLPHIN:

21 I could have served him at any time if he would have accepted the documents.

22 MS. THOMPSON:

23 So you would say it is not because he threatened you but because he wouldn't accept them? There is  
24 a difference, isn't it?

25 MR. DOLPHIN:

26 I didn't serve him – the documents were handed to Mr. Gbao and he gave them back to us. The  
27 tapes were given to him and he gave that back to us.

28 MS. THOMPSON:

29 So he refused service, that's the reason?

30 MR. DOLPHIN:

31 He refused service.

32 MS. THOMPSON:

33 Thank you.

34 MS. KAH-JALLOW:

35 May I come in here, My Lord? I just want to establish that my client mainly refused service but did not  
36 threaten *(inaudible)*.

37

1 MR. PRESIDENT:

2 Thank you. Any question from the Prosecution?

3 MS. PARMAR:

4 The Prosecution has no question, Your Honour.

5 (*Witness excused*)

6 MR. PRESIDENT:

7 Counsel for Mr. Kallon, I would like to refer you to the Rules of Evidence, 52, and there is no, I  
8 underline "no" limitation is imposed as to when service can be effected whether it's on a Monday, a  
9 Saturday or a Sunday. What is provided for is that service shall be done as soon as possible  
10 thereafter.

11  
12 Given what I have heard, and the information provided to the Court, I would, in those circumstances,  
13 deem the services to have been personally effected in their own language on each and every one of  
14 these Accused; that is, Sesay, Kallon and Gbao. So for the purpose of these proceedings this  
15 morning, it would be deemed to have been served in their own language with the amended  
16 consolidated indictment. Thank you.

17  
18 So we will now proceed with the appearance on the new count but I will ask the Court to read the  
19 consolidated indictment in total and when we get to the new count, I will ask you to stop at that time  
20 and read that count for each and every one -- every accused and at that time, I will ask them to plead  
21 to that specific count. Can we proceed, please?

22 MS. EDMONDS:

23 Special Court for Sierra Leone, Case No SCSL – 2004–15–PT, The Prosecutor against Issa Hasn  
24 Sesay also known as Issa Sesay; Moris Kallon also known as Bilai Karim; and Augustine Gbao also  
25 known as Augustine Bao.

26  
27 Amended Consolidated Indictment

28  
29 The Prosecutor, Special Court for Sierra Leone, under Article 15 of the Statute of the Special Court for  
30 Sierra Leone (the Statute) charges: Issa Hassan Sesay, also known as Issa Sesay; Morris Kallon,  
31 also known as Bilai Karim; and Augustine Gbao, also know as Augustine Bao; with Crimes against  
32 Humanity, Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and  
33 other serious violations of international humanitarian law, in violation of Articles 2, 3 and 4 of the  
34 Statute as set out below:

35  
36 The Accused Issa Hassan Sesay, also known as Issa Sesay was born 27<sup>th</sup> of June 1970 at Freetown,  
37 Western Area, Republic of Sierra Leone.

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1  
2 Morris Kallon, also known as Bilai Karim, was born 1<sup>st</sup> of January 1964 at Bo, Bo District, Republic of  
3 Sierra Leone.

4  
5 Augustine Gbao, also known as Augustine Bao, was born 13<sup>th</sup> of August 1948, at Blama, Kenema  
6 District, Republic of Sierra Leone.

7  
8 He was a member of the Sierra Leone Police Force from 1981 until 1986.

9  
10 General Allegations: At all times relevant to this Indictment, a state of armed conflict existed within  
11 Sierra Leone. For the purposes of this Indictment, organised armed factions involved in this conflict  
12 included the Revolutionary United Front (RUF), the Civil Defence Forces (CDF) and the Armed  
13 Forces Revolutionary Council (AFRC).

14  
15 A nexus existed between the armed conflict and all acts or omissions charged herein as violations of  
16 Article 3 common to the Geneva Conventions and of Additional Protocol II and other serious  
17 violations of international humanitarian law.

18  
19 The organised armed group that become known as the RUF, led by Foday Saybana Sankoh, also  
20 known as Popay, also known as Papa, also known as Pa, was founded about 1988 or 1989 in Libya.  
21 The RUF, under the leadership of Foday Saybana Sankoh, began organised armed operations in  
22 Sierra Leone in March 1991. During the ensuing armed conflict, the RUF forces were also referred to  
23 as "RUF", "rebels" and "People's Army"

24  
25 The CDF was comprised of Sierra Leonean traditional hunters, including the Kamajors, Gbethis,  
26 Kapras, Tamaboros and the Donsos. The CDF fought against the RUF and AFRC.

27  
28 On the 30<sup>th</sup> November 1996, in Abidjan, Ivory Coast, Foday Saybaba Sankoh and Ahmed Tijan  
29 Kabbah, the President of the Republic of Sierra Leone, signed a peace agreement which brought a  
30 temporary cessation to active hostilities. Thereafter, the active hostilities recommenced.

31  
32 The AFRC was founded by members of the Armed Forces of Sierra Leone who seized power from the  
33 elected government of the Republic of Sierra Leone via a coup d'etat on 25<sup>th</sup> May 1997. Soldiers of  
34 the Sierra Leonean Army (SLA) comprised the majority of the AFRC membership. On that date,  
35 Johnny Paul Koroma also known as J.P.K, became the leader and chairman of the AFRC. The AFRC  
36 forces were also referred to as "junta", "soldiers", "SLA" and "ex-SLA".  
37

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1 Shortly after the AFRC seized power, at the invitation of Johnny Paul Koroma, and upon the order of  
2 Foday Saybana Sankoh, leader of the RUF, the RUF joined with the AFRC. The AFRC and RUF  
3 acted jointly thereafter. The AFRC/RUF Junta forces (*Junta*) were also referred to as "Junta",  
4 "rebels", "soldiers", "SLA", "ex-SLA" and "People's Army".

5  
6 After the 25<sup>th</sup> of May 1997 coup d'etat, a governing body, the Supreme Council, was created within  
7 the junta. The Supreme Council was the sole executive and legislative authority within Sierra Leone  
8 during the junta. The governing body included leaders of both the AFRC and RUF.

9  
10 The junta was forced from power by forces acting on behalf of the ousted government of President  
11 Kabbah about 14<sup>th</sup> of February 1998. President Kabbah's government returned in March 1998. After  
12 the Junta was removed from power, the AFRC/RUF alliance continued.

13  
14 On 7<sup>th</sup> July 1999, in Lome, Togo, Foday Saybana Sankoh and Ahmed Tijan Kabbah, President of the  
15 Republic of Sierra Leone, signed a peace agreement. However, active hostilities continued.

16  
17 Issa Hassan Sesay, Morris Kallon, Augustine Gbao, and all members of the organised armed factions  
18 engaged in fighting with Sierra Leone -- within Sierra Leone, were required to abide by international  
19 humanitarian law and the laws and customs governing the conduct of armed conflicts, including the  
20 Geneva Conventions of 12<sup>th</sup> of August 1949, and Additional Protocol II to the Geneva Conventions, to  
21 which the Republic of Sierra Leone acceded on 21<sup>st</sup> of October 1986.

22  
23 All offences alleged herein were committed within the territory of Sierra Leone after 30<sup>th</sup> November  
24 1996.

25  
26 All acts and omissions charged herein as crimes against humanity were committed as part of a  
27 widespread or systematic attack directed against the civilian population of Sierra Leone.

28  
29 The words "civilian" or "civilian population" used in this Indictment refer to persons who took no active  
30 part in the hostilities or who were no longer taking an active part in the hostilities.

31  
32 Individual Criminal Responsibility: Paragraphs 1 through 18 are incorporated by reference.

33  
34 At all times relevant to this Indictment, Issa Hassan Sesay was a senior officer and commander in the  
35 RUF, Junta and AFRC/RUF forces.

36  
37 Between early 1993 and early 1997, Issa Hassan Sesay occupied the position of RUF Area

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1 Commander. Between about April 1997 and December 1999, Issa Hassan Sesay held the position of  
2 the Battle Group Commander of the RUF, subordinate only to the RUF Battle Field Commander, Sam  
3 Bockarie, also known as Mosquito, also known as Maskita; the leader of the RUF, Foday Saybana  
4 Sankoh, and the leader of the AFRC, Johnny Paul Koroma.

5  
6 During the Junta regime, Issa Hassan Sesay was a member of the Junta governing body. From early  
7 2000 to about August 2000, Issa Hassan Sesay served as the battle field commander of the RUF,  
8 subordinate only to the leader of the RUF, Foday Saybana Sankoh, and the leader of the AFRC,  
9 Johnny Paul Koroma.

10  
11 Foday Saybana Sankoh has been incarcerated in the Republic of Sierra Leone from about May 2000  
12 until about 29<sup>th</sup> of July 2003. From about May 2000 until about March 10<sup>th</sup> -- 10<sup>th</sup> March 2003, by  
13 order of Foday Saybana Sankoh, Issa Hassan Sesay directed all RUF activities in the Republic of  
14 Sierra Leone.

15  
16 At all times relevant to this Indictment, Morris Kallon was a senior officer and commander in the RUF,  
17 Junta and AFRC/RUF forces.

18  
19 Between about May 1996 and about April 1998, Morris Kallon was a deputy area commander.  
20 Between about April 1998 and about December 1999, Morris Kallon was Battle Field Inspector within  
21 the RUF, in which position he was subordinate only to the RUF battle group commander, the RUF  
22 battlefield commander, the leader of the RUF, Foday Saybana Sankoh, and the leader of the AFRC,  
23 Johnny Paul Koroma.

24  
25 During the Junta regime, Morris Kallon was a member of the Junta governing body.

26  
27 In early 2000, Morris Kallon became the Battle Group Commander in the RUF, subordinate only to the  
28 RUF Battle Field Commander, Issa Hassan Ceesay, the leader of the RUF, Foday Saybana Sankoh,  
29 and the leader of the AFRC, Johnny Paul Koroma.

30  
31 About June 2001, Morris Kallon became RUF Battle Field Commander, subordinate only to the leader  
32 of the RUF, Foday Saybana Sankoh, Issa Hassan Sesay, to whom Foday Saybana Sankoh had given  
33 direct control over all RUF operations, and to the leader of the AFRC, Johnny Paul Koroma.

34  
35 At all times relevant to this indictment, Augustine Gbao was a senior officer and commander in the  
36 RUF and AFRC/RUF forces.

1 Augustine Gbao joined the RUF in 1991 in Liberia. Prior to the coup, Augustine Gbao was  
2 Commander of the RUF Internal Defence Unit, in which position he was in command of all RUF  
3 Security units.

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4  
5 Between about November 1996 until about mid 1998, Augustine Gbao was a senior RUF Commander  
6 in control of the area of Kailahun Town, Kailahun District. In this position, between about November  
7 1996 and about April 1997, Augustine Gbao was subordinate only to the RUF battle group  
8 commander, the RUF battle field commander and the leader of the RUF, Foday Saybana Sankoh. In  
9 this Position, from about April 1997 and about mid 1998, Augustine Gbao was subordinate only to the  
10 RUF battle field commander, the leader of the RUF, Foday Saybana Sankoh, and the leader of the  
11 AFRC, Johnny Paul Koroma.

12  
13 Between about mid 1998 and about January 2002, Augustine Gbao was Overall Security Commander  
14 in the AFRC/RUF forces, in which position he was in command of all intelligence and security units  
15 within the AFRC/RUF forces. In this position, Augustine Gbao was subordinate only to the leader of  
16 the RUF, Foday Saybana Sankoh, and the leader of the AFRC, Johnny Paul Koroma.

17  
18 Between about March 1999 until about January 2002, Augustine Gbao was also the joint commander  
19 of AFRC/RUF forces in the Makeni area, Bombali District. As commander of AFRC/RUF forces in the  
20 Makeni area, Augustine Gbao was subordinate only to the RUF battle field commander, the leader of  
21 the RUF, Foday Saybana Sankoh, and the leader of the AFRC, Johnny Paul Koroma.

22  
23 In their respective positions referred to above, Issa Hassan Sesay, Morris Kallon and Augustine Gbao,  
24 individually, or in concert with each other, Johnny Paul Koroma, also known as JPK; Foday Saybana  
25 Sankoh; Sam Bockarie, also known as Mosquito, also known as Maskita; Alex Tamba Brima, also  
26 known as Tamba Alex Brima, also known as Gullit; Brima Bazzy Kamara, also known as Ibrahim  
27 Bazzy Kamara, also known as Alhaji Ibrahim Kamara; Santigie Borbor Kanu, also known as 55, also  
28 known as Five-Five, also known as Santigie Khanu, also known as S.B. Khanu, also known as S.B.  
29 Kanu, also known as Santigie Bobson Kanu, also known as Borbor Santigie Kanu, and/or other  
30 superiors in the RUF, Junta and AFRC/RUF forces, exercised authority, command and control over  
31 subordinate members of the RUF, Junta and AFRC/RUF forces.

32  
33 At all times relevant to this indictment and in relation to all acts and omissions charged herein, Issa  
34 Hassan Sesay, Morris Kallon and Augustine Gbao, through their association with the RUF, acted in  
35 concert with Charles Ghankay Taylor also known as Charles Macarthur Dapkpana Taylor.

36  
37 The RUF, including Issa Hassan Sesay, Morris Kallon and Augustine Gbao, and the AFRC, including

1 Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu, shared a common plan, purpose  
2 or design (joint criminal enterprise) which was to take any actions necessary to gain and exercise  
3 political power and control over the territory of Sierra Leone, in particular, the diamond mining areas.  
4 The natural resources of Sierra Leone, in particular, the diamonds, were to be provided to persons  
5 outside Sierra Leone in return for assistance in carrying out the joint criminal enterprise.

6  
7 The joint criminal enterprise included gaining and exercising control over the population of Sierra  
8 Leone in order to prevent or minimize resistance to their geographic control, and to use members of  
9 the population to provide support to the members of the joint criminal enterprise. The crimes alleged in  
10 this Indictment, including unlawful killings, abductions, forced labour, physical and sexual violence,  
11 use of child soldiers, looting and burning of civilians' structures, were either actions within the joint  
12 criminal enterprise or were a reasonably foreseeable consequence of the joint criminal enterprise.

13  
14 Issa Hassan Ceesay, Morris Kallon and Augustine Gbao, by their acts or omissions, are individually  
15 criminally responsible, pursuant to Article 6(1) of the Statute for the crimes referred to in Articles 2,3  
16 and 4 of the Statute as alleged in this Indictment, which crimes each of them planned, instigated,  
17 ordered, committed, or in whose planning, preparation or execution each accused otherwise aided  
18 and abetted, or which crimes were within a joint criminal enterprise in which each accused  
19 participated or were a reasonably foreseeable consequence of the joint criminal enterprise in which  
20 each accused participated.

21  
22 In addition, or alternatively, pursuant to Article 6(3) of the Statute, Issa Hassan Sesay, Morris Kallon  
23 and Augustine Gbao, while holding positions of superior responsibility and exercising effective control  
24 over their subordinates, are individually criminally responsibly -- responsible for the crimes referred to  
25 in Articles 2, 3 and 4 of the Statute. Each Accused is responsible for the criminal acts of his  
26 subordinates in that he knew or had reason to know that the subordinate was about to commit such  
27 acts or had done so and each accused failed to take the necessary and reasonable measures to  
28 prevent such acts or to punish the perpetrators thereof.

29  
30 CHARGES: Paragraphs 19 through 39 are incorporated by reference.

31  
32 At all times relevant to this indictment, members of the RUF, AFRC, Junta and/or AFRC/RUF forces  
33 (AFRC/RUF), subordinate to and/or acting in consent with Issa Hassan Sesay, Morris Kallon and  
34 Augustine Gbao, conducted armed attacks throughout the territory of the Republic of Sierra Leone,  
35 including Bo, Kono, Kenema, Koinadugu, Bombali, Kailahun and Port Loko Districts and the city of  
36 Freetown and the Western Area. Targets of the armed attacks included civilians and humanitarian  
37 assistance personnel and peacekeepers assigned to the United Nations Mission in Sierra Leone

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1 (UNAMSIL), which had been created by the United Nations Security Council Resolution 1270 (1999)

2  
3 These attacks were carried out primarily to terrorize the civilian population, but also were used to  
4 punish the population for failing to provide sufficient support to the AFRC/RUF, or for allegedly  
5 providing support to the Kabbah government or to pro-government forces. The attacks included  
6 unlawful killings, physical and sexual violence against civilian men, women and children, abductions  
7 and looting and destruction of civilian property. Many civilians saw these crimes committed; others  
8 returned to their homes or places of refuge to find the results of these crimes – dead bodies, mutilated  
9 victims and looted and burnt property.

10  
11 As part of the campaign of terror and punishment, the AFRC/RUF routinely captured and abducted  
12 members of the civilian population. Captured women and girls were raped; many of them were  
13 abducted and used as sex slaves and as forced labour. Some of these women and girls were held  
14 captive for years. Men and boys who were abducted were also used as forced labour; some of them  
15 were also used held captive for years. Many abducted boys and girls were given combat training and  
16 used in active fighting. AFRC/RUF also physically mutilated men, women and children, including  
17 amputating their hands or feet and carving "AFRC" and "RUF" on their bodies.

18  
19 Count 1 and 2: Terrorizing the civilian population and collective punishment: Members of the  
20 AFRC/RUF subordinate to and/or acting in concert with Issa Hassan Sesay, Morris Kallon and  
21 Augustine Gbao, committed the crimes set forth below in paragraphs 45 through 82 and charged in  
22 Counts 3 through 14, as part of a campaign to terrorize the civilian population of the Republic of Sierra  
23 Leone, and did terrorize that population. The AFRC/RUF also committed the crimes to punish the  
24 civilian population for allegedly supporting the elected government of President Ahmed Tejan Kabbah  
25 and the factions aligned with that government, or for failing to provide sufficient support to the  
26 AFRC/RUF.

27  
28 By their acts or omissions in relation to these events, Issa Hassan Sesay, Morris Kallon and  
29 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
30 individually criminally responsible for the crimes alleged below:

31  
32 Count 1: Acts of Terrorism, a violation of Article 3 common to the Geneva Conventions and  
33 Additional Protocol II, punishable under Article 3(B) of the Statute; and:

34  
35 Count 2: Collective Punishment, a violation of Article 3 common to the Geneva Conventions and of  
36 Additional Protocol II, punishable under Article 3(B) of the Statute.

37

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1 Counts 3 to 5: Unlawful killings: Victims were routinely shot, hacked to death and burned to death.

2 Unlawful killings included the following:

3  
4 Bo District: Between about 1<sup>st</sup> of June 1997 and 30<sup>th</sup> of June 1997, AFRC/RUF attacked Tikonko, Telu,  
5 Sembahun, Gerihun and Mamboma, unlawfully killing an unknown number of civilians;

6  
7 Kenema District: Between about 25<sup>th</sup> May 1997 and about 19<sup>th</sup> of February 1998, in locations  
8 including Kenema town, members of AFRC/RUF unlawfully killed an unknown number of civilians;

9  
10 Kono District: About mid-February 1998, AFRC/RUF, fleeing from Freetown, arrived in Kono District.  
11 Between about 14<sup>th</sup> February 1998 and 30<sup>th</sup> June 1998, members of AFRC/RUF unlawfully killed  
12 several hundred civilians in various locations in Kono District, including Koidu, Tombodu, Foindu  
13 Willifeh, Mortema and Biaya;

14  
15 Kailahun District: Between about 14<sup>th</sup> February 1998 and 30<sup>th</sup> June 1998, in locations including  
16 Kailahun town, members of AFRC/RUF unlawfully killed an unknown number of civilians;

17  
18  
19 Koinadugu District: Between about 14 February 1998 and 30 September 1998, in several locations  
20 including Heremakono, Kabala, Kumalu, Kurubonla, Katombo, Koinadugu, Fadugu and Kamadugu,  
21 members of the AFRC/RUF unlawfully killed an unknown number of civilians;

22  
23 Bombali District: Between about 1<sup>st</sup> May 1998 and 30<sup>th</sup> November 1998, in several locations in  
24 Bombali District, including Bonyoyo, Karina, Mafabu, Mateboi and Gbendembu, members of the  
25 AFRC/RUF unlawfully killed an unknown number of civilians;

26  
27 Freetown and the Western Area: Between 6<sup>th</sup> January 1999 and 28<sup>th</sup> February 1999, AFRC/RUF  
28 conducted armed attacks throughout the city of Freetown and the Western Area. These attacks  
29 included large scale unlawful killings of civilian men, women and children --

30 MS KAH-JALLOW:

31 Your Honour I wish to seek the Court's guidance in respect to the entering of plea. My understanding  
32 is that after each count is read, that the accused persons would enter into a plea, or are we going to  
33 read the entire amended indictment.

34 MR. PRESIDENT:

35 Indeed, as I have stated, we will read the entire indictment, but we will stop at the new count. The  
36 new count, to my knowledge, is count No. 8. At that time, we will enter the plea to that count and then  
37 proceed with the reading of the complete indictment. So I don't quite understand your --

1 MS. KAH JALLOW:

2 This is a fresh indictment which has been presented before the Court. My understanding therefore  
3 (*inaudible*)

4 MS EDMONDS:

5 Freetown and the Western Area: Between 6<sup>th</sup> January 1999 and 28<sup>th</sup> February 1999, AFRC/RUF  
6 conducted armed attacks throughout the city of Freetown and the Western Area. These attacks  
7 included large scale unlawful killings of civilian men, women and children at locations throughout the  
8 city and the Western Area, including Kissy, Wellington, and Calaba Town;

9  
10 Port Loko: About the month of February 1999, members of the AFRC/RUF fled from Freetown to  
11 various locations in the Port Loko District. Between about February 1999 and April 1999, members of  
12 AFRC/RUF unlawfully killed an unknown number of civilians in various locations in Port Loko District,  
13 including Manaarma, Tendakum and Nonkoba;

14  
15 By their acts or omissions in relation to these events, Issa Hassan Sesay; Morris Kallon and  
16 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
17 individually criminally responsible for the crimes alleged below:

18  
19 Count 3: Extermination, a crime against humanity, punishable under Article 2(B) of the Statute;

20  
21 In addition, or in the alternative: Count 4: Murder, a crime against humanity, punishable under Article  
22 2(A) of the Statute;

23  
24 In addition, or in the alternative: Count 5: Violence to life, health and physical or mental well-being of  
25 persons, in particular murder, a Violation of Article 3 Common to the Geneva Conventions and of  
26 Additional Protocol II, punishable under Article 3(A) of the Statute.

27  
28 Count 6 to 9: Sexual violence: Widespread sexual violence committed against civilian women and  
29 girls included brutal rapes, often by multiple rapists, and forced "marriages". Acts of sexual violence  
30 included the following:

31  
32 Kono District: Between about 14<sup>th</sup> of February 1998 and 30<sup>th</sup> June 1998, members of AFRC/RUF  
33 raped hundreds of women and girls at various locations throughout the district, including Koidu,  
34 Tombodu Kissi-town, Foendor, Tomendeh, Fokoiya, Wonedu and AFRC/RUF camps, such as  
35 "Superman camp" and Kissi-town camp. An unknown number of women and girls were abducted  
36 from various locations within the District and used as sex slaves and/or forced into marriages. The  
37 wives were forced to perform a number of conjugal duties under coercion by their husbands;

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1 Koinadugu District: Between about 14<sup>th</sup> February 1998 and 30<sup>th</sup> September 1998, members of  
2 AFRC/RUF raped an unknown number of women and girls in locations in Koinadugu district, such as  
3 Kabala, Koinadugu, Heremakono and Fadugu. In addition, an unknown number of women and girls  
4 were abducted and used as sexual slaves and/or forced into "marriages" and/or subjected to other  
5 forms of sexual violence. The "wives" were forced to perform a number of conjugal duties under  
6 coercion by their "husbands";

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7  
8 Bombali District: Between about 1<sup>st</sup> May 1998 and 31<sup>st</sup> November 1998 (*sic*), members of the  
9 AFRC/RUF raped an unknown number of women and girls in locations in Bombali district, including  
10 Mandaha, Rosos. In addition, an unknown number of abducted women and girls were used as sex  
11 slaves and/or forced into "marriages" and/or subjected to other forms of sexual violence. The "wives"  
12 were forced to perform a number of conjugal duties under coercion by their "husbands"

13  
14 Kailahun District: At all times relevant to this indictment, an unknown number of women and girls in  
15 various locations in the district were subjected to sexual violence. Many of these victims were  
16 captured in other areas of the Republic of Sierra Leone, brought to AFRC/RUF camps in the district,  
17 and used as sex slaves and/or forced into marriages. The "wives" were forced to perform a number of  
18 conjugal duties under coercion by their husbands;

19  
20 Freetown and the Western Area: Between 6<sup>th</sup> January 1999 and 28<sup>th</sup> February 1999, members of the  
21 AFRC/RUF raped hundreds of women and girls throughout the city of Freetown and the Western  
22 Area, and abducted hundreds of women and girls and used them as sex slaves and/or forced them  
23 into marriages and/or subjected them to other forms of sexual violence. The wives were forced to  
24 perform a number of conjugal duties under coercion by their husbands.

25 (*Pages 1 to 17 by Momodou Jallow*)  
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2 MS. EDMONDS: *(Continuing)*

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3  
4 Port Loko District: About the month of February 1999, AFRC/RUF fled from Freetown to various  
5 locations in the Port Loko District. Between February 1999 and April 1999, members of the  
6 AFRC/RUF raped an unknown number of women and girls in various locations in the district. In  
7 addition, an unknown number of women and girls in various locations in the district were used as sex  
8 slaves and/or forced into marriages, and/or subjected to other forms of sexual violence by members of  
9 the AFRC/RUF. The wives were forced to perform a number of conjugal duties under coercion by  
10 their husbands;

11  
12 By their acts or omissions in relation to these events, Issa Hassan Sesay, Morris Kallon and  
13 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
14 individually criminally responsible for the crimes alleged below:

15  
16 Count 6: Rape, a crime against humanity, punishable under Article 2(g) of the Statute; and:

17  
18  
19 Count 7: Sexual slavery and any other form of sexual violence, a crime against humanity, punishable  
20 under Article 2(g) of the Statute; and:

21  
22 Count 8: Other inhumane acts, a crime against humanity, punishable under Article 2(i) of the Statute.

23 MR. PRESIDENT:

24 Thank you.

25  
26 As we have now reached the new count which is Count 8, I will ask each and every accused to enter  
27 a plea to this new count. And for the -- for the benefit of counsel and the Accused, I would like to refer  
28 you, again, given the comments made before, to Rules 50(B)(i) about amendments to indictment.  
29 And I would like to refer you, Counsel, to this Court's decision on 6 May 2004 on the Prosecution  
30 request for leave to amend the indictment, and in that court decision we ruled that one new count -- I  
31 underline and repeat -- one new count, should be added to the indictment, and this is Count 8 that we  
32 are just about to enter a plea about. And Rule 50(B) reads: "If the amended indictment includes new  
33 charges and the accused has already made his initial appearance in accordance with Rule 61, a  
34 further appearance shall be held as soon as practicable to enable the accused to enter a plea on the  
35 new charge."

36  
37 And the new charge is Count 8, and this is why we are proceeding in this particular fashion and asking

1 the accused to enter a plea to this specific count.

2

3 So I will proceed in accordance with the listing on the orders, and the first accused is Accused Issa  
4 Sesay. Would you stand up please, Mr. Sesay. Would you please make sure that his mike is on.  
5 Okay, that's fine.

6

7 Mr. Sesay, Count No. 8, and I will just repeat, it reads this -- as follows: "Other inhumane act, a crime  
8 against humanity, punishable under Article 2(i) of the Statute." How do you plead to this  
9 Count No. 8; guilty or not guilty?

10 THE ACCUSED SESAY:

11 Yes, My Lord, I want to know certain things before I enter into a plea.

12

13 First of all, I want you to know and the entire court to know that it was the ECOWAS that appointed  
14 me to implement the Lomé Accord.

15

16 Secondly, I want to know the submission of the jurisdiction of the court of Sierra Leone (*sic*). When I  
17 get this response, then I will enter a plea.

18

19 Finally, I was indicted -- during the time in Bonthe, I was alone. Now, the indictment has been  
20 consolidated. Now the indictment has been changed. Therefore, I must be prepared so that I can  
21 take a plea. That is all I have to say.

22 MR. PRESIDENT:

23 Mr. Sesay, have you discussed this matter with your counsel?

24 THE ACCUSED SESAY:

25 Well, my counsel is not around and I -- until I get the ruling of the submission from the Supreme Court,  
26 I will not enter a plea, and my counsel should not enter a plea on my behalf. Thank you.

27 MR. PRESIDENT:

28 Thank you, Mr. Sesay

29 THE ACCUSED SESAY:

30 Thank you, sir.

31 MR. PRESIDENT:

32 In accordance with the Rules of Procedure of this Court, in these circumstances, the Court will enter a  
33 not guilty plea to this new count. Thank you.

34 THE ACCUSED SESAY:

35 That is why I said until I get the response from the Supreme Court before I enter a plea -- about the  
36 jurisdiction -- until I get a response from the Supreme Court about the jurisdiction before I enter a  
37 plea.

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1 MR. PRESIDENT:

2 I thank you, Mr. Sesay. I've heard what you said and I'll refer to -- you to our Rules of Procedure.  
3 The Rules of Procedure over rights is that if the Accused does not enter a plea of guilty or not guilty, a  
4 not guilty plea shall be recorded, and that's what I have done. So, for the purpose of this procedure  
5 this morning, a not guilty plea is recorded against Count No. 8 for Mr. Sesay.

6

7 Thank you. Be seated, please.

8 MS. KAH-JALLOW:

9 My Lord, may I ask the Court to intervene with the interpretation. The interpreter has interpreted your  
10 statements incorrectly, so I would like to assist this Court, please.

11 *(Counsel interprets)*

12 MR. PRESIDENT:

13 Mr. Sesay, please be seated.

14 *(Further interpretation by counsel)*

15 MR. PRESIDENT:

16 Mr. Sesay, I have explained to you or tried to explain to you the rules that we have and the rules that  
17 are applicable to this Court. And the Rules provide --

18 MS. KAH-JALLOW:

19 My Lord, may we please have a short adjournment so I can confer with my client.

20 MR. PRESIDENT:

21 Very well, the Court will have a short recess and will reconvene in 10 minutes.

22 *(Court recessed from 1120H to 1140H)*

23 MS. KAH-JALLOW:

24 Your Honour, counsel for Mr. Sesay would like to apologise to the Court for these -- for the delay in  
25 the proceedings.

26 MR. PRESIDENT:

27 Thank you, are we ready to continue now?

28 MS. KAH-JALLOW:

29 My Lord -- my Honour, before we do continue, I would also like to make an application that the  
30 interpretation in *Krio* regarding the -- Count 8, the new charge, be heard by counsel.

31 MR. PRESIDENT:

32 Reread or re-translated?

33 MS. KAH-JALLOW:

34 It should be translated to the hearing of counsel, please. Thank you.

35 MR. PRESIDENT:

36 Yes, Mr. Interpreter, can you do that now, please?

37

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1 Defence Counsel, are you satisfied now?

2 MS. KAH-JALLOW:

3 Yes, Your Honour.

4 MR. PRESIDENT:

5 Thank you.

6

7 So, the record -- for the record and for written certainty, the Accused, having refused to enter a plea,  
8 the record will reflect that the Accused has pleaded not guilty, and this in accordance with the Rules of  
9 Procedure.

10 MS. THOMPSON:

11 Your Honour, I rise momentarily. I know you have gone over this point before, but I think I need to  
12 seek more clarification about this because what we have in here now -- and I see what Rule 50(B)(i)  
13 says, and your decision -- this Court's decision on the 6th of May. The difficulty I have is reconciling  
14 that with an indictment which will no longer be before this Court once these proceedings are over  
15 because the pleas taken to all the other charges, all the other counts with the exception of Count 8,  
16 are on the first -- contained in the first indictment. We now have a new amended consolidated  
17 indictment with Count 8 and we are only taking a plea to Count 8. I see what the Rules say, and we  
18 are going according to the Rules, but there seems to be a gap and I don't -- I think Your Honour has  
19 discretion here actually, where we can take a plea to all the others because what we have now is that  
20 these gentlemen -- I speak today for Gbao and the others as well -- will be tried on counts contained  
21 in an indictment which will no longer be before this Court once this indictment is in.

22 MR. PRESIDENT:

23 I hear your comments. However, my ruling still stands and these matters were indeed discussed at  
24 length at the same that we had the status conference many weeks ago, the question of the  
25 consolidated indictment, what it should contain, not contain, and the subsequent submissions to the  
26 Court, directions from the Court, and all of these matters, and eventually we decided to proceed in this  
27 direction. And there is also, for your reference, the decision on the joinder that did not -- and in that  
28 decision it does not foresee any new pleading. And the new pleading is only to the new count and  
29 there is only one new count, and this is Count No. 8.

30 MS. THOMPSON:

31 I'm grateful, Your Honour.

32 MR. PRESIDENT:

33 And, as you know, we are not prepared to re-open the whole debate on everything. A new count will  
34 mean, as you know, that the Accused, on that new count, is entitled to raise any preliminary motion  
35 that he deems appropriate on that new count.

36 MS. THOMPSON:

37 I'm not seeking to re-open it, Your Honour. That's not the point at all; the point I was making was that

1 we have an indictment which is no longer before the Court and pleas were taken to that indictment.

2 MR. PRESIDENT:

3 Well, the indictment that is before the Court is the consolidated indictment.

4 MS. THOMPSON:

5 That's exactly the point I'm making, Your Honour, and there are no pleas to that consolidated  
6 indictment.

7 MR. PRESIDENT:

8 Thank you.

9

10 I will now ask Accused Morris Kallon to stand up, please.

11

12 Mr. Kallon, Count No. 8 reads as follows: "Other inhumane act, a crime against humanity, punishable  
13 under Article 2(i) of the Statute."

14

15 Mr. Kallon, how do you plead to this new count; guilty or not guilty?

16 THE ACCUSED KALLON:

17 I'm not prepared to enter a plea in this Court until I get the feedback from the submission of the  
18 Supreme Court of Sierra Leone. Then, if this consolidated indictment is bringing three of us together,  
19 it means reading it all over again. So I will not enter a plea just for one count. What my leader has  
20 said, I'm in support of it.

21

22 Thank you very much, My Lord.

23 MR. PRESIDENT:

24 Thank you, Mr. Kallon. In these circumstances, pursuant to Rule -- the Rules of Procedure and  
25 Evidence of the Special Court, the Court will enter -- will deem that you have pleaded not guilty to this  
26 specific count. Thank you.

27 THE ACCUSED KALLON:

28 My Lord, the Rules of Procedure should not enter me as not guilty because I have not said I am not  
29 guilty.

30 MR. PRESIDENT:

31 That's fine. We've heard you and your comments are recorded. Thank you.

32

33 Mr. Gbao, stand up, please.

34 THE ACCUSED GBAO:

35 Your Honour --

36 MR. PRESIDENT:

37 No, please wait, I will read the count first and then I will ask you to plead to that particular count.

1 Stand up, please.

2  
3 "Other inhumane act, a crime against humanity, punishable under Article 2(i) of the Statute."

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4  
5 Mr. Gbao, how do you plead to this count, guilty or not guilty?

6  
7 THE ACCUSED GBAO:

8 Your Honour, as a trained policeman from Scotland Yard, who had dealt with investigations and had  
9 been dealing with prosecution before, I believe that --

10 MR. PRESIDENT:

11 Mr. Gbao, I'm not asking you to make a plea other than to say whether you plead guilty or not guilty to  
12 this count.

13 THE ACCUSED GBAO:

14 Yes, but I would like to make a comment, Your Honour, in respect of the new indictment. In any  
15 indictment, as long as A is -- once "A" is changed, it means it's a new plea. And I would not like to  
16 say I'm going to enter into a plea now until we get the outcome of the jurisdiction before the Supreme  
17 Court, and to tell us at the same time as to whether the new indictment -- I mean, the old indictment,  
18 had been dropped against us.

19 MR. PRESIDENT:

20 Thank you. Your comments are recorded. And, again, your counsel will be able to raise these  
21 arguments in due course should he wish to do so on your behalf, and they will be able to make  
22 motions under the applicable Rules of this Court in due course.

23 THE ACCUSED GBAO:

24 And in that respect, I will advise my counsels (*sic*) not to take any plea on my behalf in this Court.

25 MR. PRESIDENT:

26 Your counsel will not be asked to take a plea on your behalf. The procedure provides that if an  
27 accused refuses to plea the Court will enter, for that purpose, a not guilty plea. And this is what the  
28 Court will be -- will do because this is what the procedure provides but --

29 THE ACCUSED GBAO:

30 I refuse to enter into plea in respect of the new indictment and in respect of the new charge.

31 MR. PRESIDENT:

32 Thank you, Mr. Gbao, your comments are recorded.

33  
34 Well, Court Officer, could you please complete the reading of the consolidated indictment?

35 MS. EDMONDS:

36 Count 9: Outrages upon personal dignity, a violation of Article 3 Common to the Geneva Conventions  
37 and of Additional Protocol II, punishable under Article 3(e) of the Statute.

1 Counts 10 to 11: Physical Violence

2  
3 Widespread physical violence, including mutilations, was committed against civilians. Victims were  
4 often brought to a central location where mutilations were carried out. These acts of physical violence  
5 included the following;

6  
7 Kono District: Between about 14th February 1998 and 30th June 1998, AFRC/RUF mutilated an  
8 unknown number of civilian in various locations in the district, including Tombodu, Kaima and  
9 Wonedu. The mutilations included cutting off limbs and carving "AFRC" and "RUF" on the bodies of  
10 the civilians;

11  
12 Kenema District: Between about 25th of May 1997 and about 19th February 1998, in locations in  
13 Kenema district, including Kenema town, members of AFRC/RUF carried out beatings and  
14 ill-treatment of a number of civilians who were in custody;

15  
16 Koinadugu District: Between about 14 February 1998 and 30 September 1998 members of the  
17 AFRC/RUF mutilated an unknown number of civilians in various locations in the district, including  
18 Kabala and Konkoba. The mutilations included cutting off limbs and carving "AFRC" and "RUF" on  
19 the chests and foreheads of civilians;

20  
21 Bombali District: Between about 1st of May 1998 and 31st of November 1998 (*sic*), members of the  
22 AFRC/RUF mutilated an unknown number of civilians in various locations in Bombali district, including  
23 Lohondi, Malama, Mamaka, Rosos. The mutilations included cutting off limbs;

24  
25 Freetown and the Western Area: Between 6<sup>th</sup> of January 1999 and 28th February 1999, members of  
26 the AFRC/RUF, mutilated an unknown number of civilian men, women and children in various areas  
27 in Freetown and the Western Area, including Kissy, Wellington and Cabala Town. The mutilations  
28 included cutting off limbs;

29  
30 Port Loko: About the month of February 1999, the AFRC/RUF fled from Freetown to various locations  
31 in the Port Loko District. Between February 1999 and April 1999, members of the AFRC/RUF  
32 mutilated an unknown number of civilians in various locations in the district, including cutting off limbs.

33  
34 By their acts or omissions in relation to these events, Issa Hassan Sesay, Morris Kallon, and  
35 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
36 individually criminally responsible for the crimes alleged below:



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1 Count 10: Violence to life, health and physical or mental well-being of the persons, in particular,  
2 mutilation, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II,  
3 punishable under Article 3(a) of the Statute; in addition or in the alternative:

4  
5 Count 11: Other inhumane acts, a crime against humanity, punishable under Article 2(i) of the  
6 Statute.

7  
8 Count 12: Use of child soldiers

9  
10 At all times relevant to this indictment, throughout the Republic of Sierra Leone, AFRC/RUF routinely  
11 conscripted, enlisted and/or used boys and girls under the age of 15 to participate in active hostilities.  
12 Many of these children were first abducted, then trained in AFRC/RUF camps in various locations  
13 throughout the country, and thereafter used as fighters.

14  
15 By their acts or omissions in relation to these events, Issa Hassan Sesay, Morris Kallon and  
16 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
17 individually criminally responsible for the crimes alleged below:

18  
19 Count 12: Conscripting or enlisting children under the age of 15 years into armed forces or groups, or  
20 using them to participate actively in hostilities, and other serious violation of internal humanitarian  
21 law (*sic*), punishable under Article 4(c) of the Statute.

22  
23 Count 13: Abductions and forced labour.

24  
25 At all times relevant to this indictment, AFRC/RUF engaged in widespread and large scale abductions  
26 of civilians and use of civilians as forced labour. Forced labour included domestic labour and use as  
27 diamond miners. The abductions and forced labour included the following:

28  
29 Kenema District: Between about 1st August 1997 and about 31st January 1998, AFRC/RUF forced  
30 an unknown number of civilians living in the district to mine for diamonds at Cyborg Pit in Tongo Field;

31  
32 Kono District: Between about 14th February 1998 to January 2000, AFRC/RUF forces abducted  
33 hundreds of civilian men, women and children, and took them to various locations outside the district,  
34 or to locations within the district, such as ARF -- AFRC/RUF camps, Tombodu, Koidu, Wonedu,  
35 Tomendeh. At these locations the civilians were used as forced labour, including domestic labour and  
36 as diamond miners in the Tombodu area;

1 Koinadugu District: Between about 14th February 1998 and 30th September 1998, at various  
2 locations, including Heremakono, Kabala, Kumala, Koinadugu, Kamadugu and Fadugu, members of  
3 the AFRC/RUF abducted an unknown number of men, women and children and used them as forced  
4 labour;

5  
6 Bombali District: Between about 1st May 1998 and 31st November 1998 (*sic*), in Bombali district,  
7 members of the AFRC and RUF abducted an unknown number of civilians and used them as forced  
8 labour;

9  
10 Kailahun District: At all times relevant to this indictment, captured civilian men, women and children  
11 were brought to various locations within the district and used as forced labour;

12  
13 Freetown and the Western Area: Between 6th January 1999 and 28th February 1999, in particular as  
14 the AFRC/RUF were being driven out of Freetown and the Western Area, members of the AFRC/RUF  
15 abducted hundreds of civilians, including a large number of children, from various areas in Freetown  
16 and the Western Area, including Peacock Farm, Kissy and Cabala Town. These abducted civilians  
17 were used as forced labour.

18  
19 Port Loko: After about -- after the month of February 1999, the AFRC/RUF fled from Freetown to  
20 various locations in the Port Loko district. Members of the AFRC/RUF used civilians, including those  
21 that had been abducted from Freetown and the Western Area, as forced labour in various locations  
22 throughout the Port Loko district, including Port Loko, Lunsar and Masiaka. AFRC/RUF forces also  
23 abducted and used as forced labour civilians from various locations in the Port Loko district, including  
24 Tendakum and Nonkoba.

25  
26 By their acts or omissions in relation to these events, Issa Hassan Sesay, Morris Kallon, and  
27 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
28 individually criminally responsible for the crimes alleged below:

29  
30 Count 13: Enslavement, a crime against humanity, punishable under Article 2(c) of the Statute.

31  
32 Count 14: Looting and burning.

33  
34 At all times relevant to this indictment, AFRC/RUF engaged in widespread unlawful taking and  
35 destruction by burning of civilian property. This looting and burning included the following:

36  
37 Bo District: Between 1st June 1997 and 30th June 1997, AFRC/RUF forces looted and burnt an

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1 unknown number of civilian houses in Telu, Sembahun, Mamboma, and Tikondo;

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2  
3 Koinadugu District: Between 14th February 1998 and 30th September 1998, AFRC/RUF forces  
4 engaged in widespread looting and burning of civilian homes in various locations in the district,  
5 including Heremakono, Kabala, Kamadugu and Fadugu;

6  
7 Kono District: Between about 14th February 1998 and 30th June 1998, AFRC/RUF engaged in  
8 widespread looting and burning in various locations in the district, including Tombodu, Foindu, Yardu  
9 Sando, where virtually every home in the village was looted and burnt;

10  
11 Bombali District: Between about 1st March 1998 and 31st November 1998 (*sic*), AFRC/RUF forces  
12 burnt an unknown number of civilian buildings in locations in Bombali district, such as Karina and  
13 Mateboi;

14  
15 Freetown and the Western Area: Between 6th January 1999 and 28th February 1999, AFRC/RUF  
16 forces engaged in widespread looting and burning throughout Freetown and the Western Area. The  
17 Majority of houses that were destroyed were in the areas of Kissy, Wellington and Calaba town; other  
18 locations included the Fouray Bay, Upgun, State House and Pademba Road areas of the city.

19  
20 By their acts or omissions in relation to these events, Issa Hassan Sesay, Morris Kallon and  
21 Augustine Gbao, pursuant to Articles 6(1) and, or alternatively, 6(3) of the Statute, are individually  
22 criminally responsible for the crimes alleged below:

23  
24 Count 14: Pillage, a violation of Article 3 Common to the Geneva Conventions and of Additional  
25 Protocol II, punishable under Article 3(f) of the Statute.

26  
27 Counts 15 to 18: Attack on UNAMSIL personnel

28  
29 Between 15th April 2000 and about 15th September 2000, AFRC/RUF engaged in widespread attacks  
30 against UNAMSIL peacekeepers and humanitarian assistance workers within the Republic of Sierra  
31 Leone, including, but not limited to locations within Bombali, Kailahun, Kambia, Port Loko, and Kono  
32 districts. These attacks included unlawful killing of UNAMSIL peacekeepers, and abducting hundreds  
33 of peacekeepers and humanitarian assistance workers who were then held hostage.

34  
35 By their acts or omissions in relations to these events, Issa Hassan Sesay, Morris Kallon and  
36 Augustine Gbao, pursuant to Article 6(1) and, or alternatively, Article 6(3) of the Statute, are  
37 individually criminally responsible for the crimes alleged below:

1 Count 15: Intentionally directing attacks against personnel involved in humanitarian assistance or  
2 peacekeeping mission, and other serious violation of international humanitarian law, punishable under  
3 Article 4(b) of the Statute; in addition or in the alternative:

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4  
5 Count 16: For the unlawful killings, murder, a crime against humanity, punishable under Article 2(a) of  
6 the Statute; in addition or in the alternative:

7  
8 Count 17: Violence to life, health and physical or mental well-being of the persons, in particular,  
9 murder, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II,  
10 punishable under Article 3(a) of the Statute; in addition, or in the alternative:

11  
12 Count 18: For the abductions and holding as hostage, taking of hostages, a violation of Article 3  
13 Common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3 of the  
14 Statute (*sic*).

15  
16 Dated this day, the 13th day of May 2004; Freetown, Sierra Leone; David M. Crane, the Prosecutor.

17 MR. PRESIDENT:

18 Thank you, madam.

19  
20 I would like to ask the Prosecution if they have anything to add with reference to the appearance.

21 MS. PARMAR:

22 No, Your Honour, the Prosecution has nothing to add.

23 MR. PRESIDENT:

24 Thank you.

25  
26 Counsel for Accused Sesay, do you have anything to add with reference to the appearance?

27 MS. KAH-JALLOW:

28 No, Your Honour.

29 MR. PRESIDENT:

30 Counsel for Accused Kallon?

31 MR. NICOL-WILSON:

32 No, Your Honour.

33 MR. PRESIDENT:

34 Counsel for Accused Gbao?

35 MS. THOMPSON:

36 No, Your Honour, no.

37

1 MR. PRESIDENT:

2 Counsel for the Prosecution, I would like to refer you now to the provisions of Rules 50(B)(ii) that  
3 provides as follows: "Within seven days from such appearance the Prosecution shall disclose all  
4 materials envisaged in Rule 66(a)(i) pertaining to the new charge."  
5

6 Has the Prosecution any comment to make with reference to this obligation?

7 MS. PARMAR:

8 Your Honour, as referred to in our motion to amend the indictment, much of the material upon which  
9 this new charge is based has, in fact, already been disclosed to the Defence.

10 MR. PRESIDENT:

11 Thank you.  
12

13 So Defence counsel for all the Accused, I would like to direct your attention at this moment that there  
14 is a further time delay of 10 days for the Defence to file any preliminary motion, pursuant to  
15 Rule 72 in relation to this new charge, and this is in pursuant to Rule 50(B)(iii).  
16

17 So that essentially terminates the proceedings with -- in reference to the initial appearance of the  
18 Accused Sesay, Kallon and Gbao, and the Court will order the continuation of detention or remand of  
19 these Accused until further order from this Court.  
20

21 And before I adjourn this matter and the hearing, I would like to thank the interpreters for their  
22 assistance, and I would like as well to inform counsel for AFRC accused that were scheduled to  
23 proceed at 11 o'clock this morning. Obviously, as you can see, there has be delays in the  
24 proceedings this morning and we are now at 15 past 12, and it is certainly lunch time in the detention,  
25 so it will not be possible to proceed now. So I'm just informing you that we will resume the hearing --  
26 no, not resume, but we will begin the hearing for the AFRC members at 1445 this afternoon. Thank  
27 you.  
28

29 The hearing is adjourned *sine die*.

30 (*Court adjourned at 1215H*)

31 (*Pages 18 to 29 by Gifty C. Harding*)  
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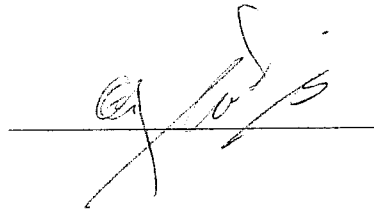
CERTIFICATE

We, Momodou Jallow and Gifty C. Harding, Official Court Reporters for the Special Court for Sierra Leone, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*machine writer*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

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Momodou Jallow

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Gifty C. Harding

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Annex 2: *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Transcript of 20 July 2004.

- 1 A. Well, these girls were taken by them. They said the girls were their wife.
- 2 Q. How were the girls taken?
- 3 A. The girls were forcefully taken along with them. We said -- because I heard one of the commander  
4 saying that "this was my girl -- was my wife," I mean, "you're going to be my wife."
- 5 Q. What does that mean if someone was going to be their rebel wife?
- 6 A. Rebel wife is a forceful way of using a woman as -- as his own wife. I mean, as you understand a wife  
7 is someone that married in a legal way, but in this way it is illegal of taking a girl forcefully to use her.
- 8 MR. PRESIDENT:
- 9 It is not his place. This is not the place of the witness to go into that. It is argumentative, it is a legal  
10 submission.
- 11 MS. PARMAR:
- 12 Your Honour, I'll rephrase the question.
- 13 MR. PRESIDENT:
- 14 Yes, please, can you rephrase your question.
- 15 MS. PARMAR:
- 16 Q. Witness --
- 17 A. Yeah.
- 18 Q. -- what did you see these girls doing?
- 19 A. These girls slept with them.
- 20 Q. Did you see this?
- 21 A. Yeah, I saw that.
- 22 Q. When did you see this?
- 23 A. When I was in the bush.
- 24 Q. What else did you see these girls doing?
- 25 A. Because after, after taking me from my village, the journey continued for some days. Day and night  
26 we were walking and any village they arrived with us, they burned houses and they will loot property  
27 from houses and food, people's food was removed from various houses and they would collect these  
28 properties, and people would be captured and we would continue the journey.
- 29 Q. Witness, can you describe the village, the villages you passed through?
- 30 A. Yeah.
- 31 Q. What were the names of these villages?
- 32 A. Like Karina. One of the villages we passed through was Karina.
- 33 Q. Do you remember the names of any other villages?
- 34 A. Yeah, like Fadugu.
- 35 Q. How long did you travel with this group?
- 36 A. Well, we travelled for three days. I mean day and night we're travelling.
- 37 Q. You described seeing things when you passed through these villages, what else did you see happen



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Annex 3: *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-PT, Transcript of 22 July 2004.

- 1 A. Yes. It was the way that they drove.
- 2 Q. You stated that they started burning houses, can you explain exactly what you mean by that?
- 3 A. They set fire on houses and the houses were burning.
- 4 Q. And how do you know this?
- 5 A. It was something that we saw and our own house was burnt, they burnt it, and they burnt the whole
- 6 Koidu Town.
- 7 Q. After you saw the houses burning, what happened?
- 8 A. When they started, we ran away because they said they did not want to see civilians.
- 9 Q. Where did you go?
- 10 A. We did not go far away, we went to Wendedu village.
- 11 Q. Can you tell the Court where Wendedu village is in relation to Koidu?
- 12 A. It is about 2 miles from Koidu Town.
- 13 Q. Do you know which direction it is from Koidu?
- 14 A. It is in the eastern part of Koidu.
- 15 Q. Now this time you left -- when you left Koidu for Wendedu, what season was it?
- 16 A. It was in the dry season.
- 17 Q. Now, you have told the Court that you used to be a diamond miner, is there a difference in mining
- 18 between the dry season and the rainy season?
- 19 A. Yes, there is a small difference. There is a small difference between mining in the rainy season and
- 20 mining in the dry season. In some places you cannot do deep mining except those who have a lot of
- 21 money. They are the one that can do mining in -- deep mining in the dry season because they use
- 22 caterpillars. Then in the rainy season, some go to the terrace and bring terrace -- they come to a
- 23 stream and wash. This is how they mined in the rainy season. Or you go to a stream, you take gravel
- 24 from there, you can wash it. That is the difference between the dry season mining and the rainy
- 25 season mining. It is a very small -- it is just a small difference.
- 26 Q. So at this time when you left Koidu for Wendedu what type of mining was going on?
- 27 A. Well, they were not mining, that was the time we left Koidu Town.
- 28 Q. And how did you get to Wendedu?
- 29 A. We walked on foot.
- 30 Q. Who exactly went with you?
- 31 A. Myself, my children, wife and a lot of other people, plenty.
- 32 Q. Who were these other people?
- 33 A. They were civilians, all of us were civilians.
- 34 Q. And when you say plenty, can you give an approximate number of people that went with you?
- 35 A. I cannot tell. I was unable to count; we were plenty.
- 36 Q. What happened when you arrived in Wendedu?
- 37 A. Okay. When we reached Wendedu, we waited for awhile. Okay, the juntas and rebels were going --

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1 they went to us, but they never did any harm to us at that time. They went to us and started drinking  
2 palm wine. What forced me to leave there with other people, one day I saw five vehicles, I saw five  
3 young girls who sat inside the vehicles, one was weeping. One among the boys, the junta boys, they  
4 captured my younger sister. They said, "This is Captain Bai Bureh's wife." They took her to Bai  
5 Bureh, then they said "Yes, this is a beautiful lady." I went to beg so that my sister could be released;  
6 they didn't agree. Then they asked me, "Your life, your sister, which of the two do you want?" Then I  
7 said "My life." Then my sister said, "Brother go." Then I left there. We packed our belongings and  
8 went away, went to Kondewakoro. We lived in those forests. We built some huts there.

9 Q. Mr. Witness, how old was your sister at this time?

10 A. At that time she was 16 years old.

11 Q. And you stated that Captain Bai Bureh was there, who was Captain Bai Bureh?

12 A. He was one of the commanders.

13 Q. And were there any other people there besides Captain Bai Bureh?

14 A. There was one Lieutenant Jalloh, fair in complexion. They went there in numbers.

15 Q. When you say "they," who do you mean exactly?

16 A. Well, the juntas and the rebels because all of them came together.

17 Q. And at this time when your sister was taken, do you remember how many juntas and rebels were  
18 there?

19 A. No, I cannot tell. And, in fact, you cannot stand and started counting them.

20 Q. You said that they came in five trucks, do you remember what kind of trucks they were?

21 A. Land Rover.

22 Q. Do you remember anything else about the trucks?

23 A. Well, only about the girls that were in the trucks and one was weeping.

24 Q. Can you tell the Court what your opinion was of the approximate age of these girls?

25 A. Well, they are not my children, but what I know they are underage girls.

26 Q. When you say "underage," what do you mean?

27 A. Well, what I meant by that, they were around or about 13, 14, 15, 16 years.

28 Q. And you stated one of the girls was crying, do you know why she was crying?

29 A. Well, by my experience I knew she was not --

30 MR. PRESIDENT:

31 Speculative, speculative.

32 MR. SANTORA:

33 I didn't -- the reason I ask is because perhaps he was close enough to know what the reason of her --

34 MR. PRESIDENT:

35 Then ask him that.

36 MR. SANTORA:

37 Yes, Your Honour.