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Overview of Appellant's Appeal:

On the 18 February 2009, Trial Chamber 1 of the Special Court for Sierra Leone found the Appellant guilty of 16 counts of War crimes, Crimes against Humanity and Serious Violations of International Humanitarian Law.

On the 25 March 2009 the Accused was sentenced to serve a maximum sentence of 40 years imprisonment. The Appellant appealed to this Honourable Appeals Chambers and filed 31 grounds of appeal.

Without in any way challenging the Pre- Appeals Judge's Decision on the Appellant's Motion to extend page and time limits for the Brief herein, the Appellant respectfully notes that he has faced serious challenges in presenting all the arguments he would have wished to present to the Honourable Appeals Chamber due to the number of pages permitted by the Honourable Pre-Appeals Judge. The Appellant is of the humble opinion that the limitations placed on him in the presentation of this brief have seriously hampered his duty to exhaustively and adequately present his case. Nevertheless, the Appellant has done his best in the difficult circumstances and respectfully presents this Brief.

The recurring grievance by the Appellant in this Appeal first relates to the overly expansive, opaque and amorphous manner in which the theory of joint criminal enterprise has been applied to him.

The Chamber found the Appellant either absent or remotely linked to the crimes for which he was nevertheless ultimately convicted rendering this case only one of its kind. Never in the history of criminal law has individual responsibility been so liberally adjusted to justify a conviction unsupported by evidence..

The Appellant is further concerned that the entire judicial process has been unfair, unbalanced and biased against him to the extent that he was convicted as a result of selective application of the law.

The Appellant further notes that his right to a fair and credible legal process was seriously compromised at every material stage of the proceedings from pre-trial to judgment and sentencing.

The right to take a plea is one of the most basic and yet fundamental rights protected by the Statute of the Special Court as well as all civilized criminal jurisdictions the world over. In this case however, the Trial Chamber granted the Prosecutor request to file consolidated indictments, amended consolidated indictments, amended indictment and corrected amended indictment,, which profoundly extended and added new criminal allegations against the Appellant but denied him on request, the right to take a plea. Due to the persistence of the Appellant in asserting his right to be promptly informed of the case against him by providing material detail to enable him prepare the necessary defence to confront his accuser, the Trial Chamber waited until Judgment to find that the pleading of alleged personal participation of the Appellant in criminal conduct was defective and that the Prosecutor had failed to

explain why it could not provide the required material detail to give the Appellant notice. Rather than make a finding of prejudice and sanction this egregious violation, the Trial Chamber endorsed it by abdicating its statutory role of neutral arbiter by undertaking to cure the defects in the indictment. Regrettably and to the material prejudice of the Appellant, the Trial Chamber proceeded to convict him on most allegations and counts where it failed to ascertain as promised, that the indictment had been cured.

The Chamber took the consistent and principled position at trial that incriminating co-accused evidence was inadmissible against co-accused in this joint trial because it violated Rule 82 of the Rules of Procedure and Evidence of the Special Court. The Appellant conducted his defence throughout with this assurance in mind. The Trial Chamber reneged on this finding in respect of the Appellant and unjustly relied heavily on co-accused evidence to convict him on the UNAMSIL and other counts. This violation is egregious because the said co-accused evidence did not form the basis of the prosecution case against the accused and the Appellant was never put on notice that the said evidence would be used in any manner adverse to him.

The Appellant was also confronted with a process where motions filed by him raising material fair trial issues were either rejected without sound legal justification or unfairly expunged from the record. At Judgment the Appellant's testimony was repudiated on legally untenable and unjustified grounds. The Chamber also completely disregarded all the 20-plus witnesses he presented in defence by taking refuge in its general discretionary power of evaluation of evidence. These witnesses were only referred to when the Chamber found any of their testimonies useful in justifying the Appellant's conviction. In consequence the Appellant has been condemned unheard.

This Honourable Appeals Chamber is urged to step in and remedy the grave injustice that this improper conviction has occasioned

Correction of Errors in Kallon's Appeals Brief and Filing of Revised Table of Contents

The Appellant herewith files this corrigendum being corrections of typographical errors in his Appeal Brief filed on 1 June 2009 .The errors are a result of the time constraints to file the Brief and are regretted. The words/phrases in bold and underline indicate the corrections to be made. The Appellant further files a revised Table of Contents and Overview of his Appeal Brief as an annex to this corrigendum.

A. ERROS IN THE BRIEF

1. Page 1

Under ground 1: Violation of fair trial Rights

Sub ground 2.2, 1st paragraph should be **0**, and not **2**

2. Paragraph 7 at page 5, line 6

Appellants and not **Appellant's**

3. Paragraph 12 page 6 Second sentence

Should read: "The Chamber had earlier rejected the entirety of the testimony of the witness **but with respect to the Appellant decided to...**"

4. Paragraph 14 page 7 Second last line

Chamber and not **chamber**.

5. Paragraph 18 at page 9 The last sentence line 2

Negates and not **negatives**

6. Paragraph 47 page 25 line 6

Should read:

"...which would have rendered imputation of guilt appropriate....."and not **"...which would have would rendered imputation of guilt appropriate"**

7. Paragraph 51, page 27 line 1

Delete the word **"correctly"** after the... Trial Chamber.....

8. Paragraph 61, page 33 line 5

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Replace the word **Kano** with **Kono**

9. Paragraph 63 at page 34, line 6

Should be "...glaring absence of any **evidence** comes to the fore" instead of "**..glaring absence of any comes to the fore**"

10. Paragraph 67 at page 36 line 3

"...Kallon notice and Grounds of Appeal **filed**....." Delete the word "**filed**"

11. Paragraph 76 at page 41 line 6

Line 6 should be "The Appellant shall **more fully**....." and not "The Appellant **shall amore fully**....."

12. Paragraph 77 at page 41

The Sub- heading just before Paragraph 77, Sub ground 8.1 to 8.6.....(The appellant shall also **rely** on ...and not **relle** an)

13. Paragraph 78 at 42

Erroneous reliance on witness TFI- 141 to determine command responsibility for the Appellant. **The following references to the trial judgment should be inserted- Paras 835 – 839**

Erroneous reliance on the testimonies of TFI – 141 and TFI – 263 to determine the Appellant's alleged planning of the use of child soldiers **The following reference to the trial Judgment should be inserted Paras 1628 – 1632, 16636 – 1637, 1640-1645, 1669, 1675, 1697 – 1700**

Erroneous reliance on the testimonies of TFI – 045 and TFI – 371 to determine the Appellant's involvement in the crimes at Tongo. **The following references to the trial judgment should be inserted – Paras 1087, 1088, 1089, 1094, 1095**

Erroneous reliance on the testimony of TFI – 366
The following references to fair trial judgment should be inserted

Paras 1140, 1141, 1144, 1638

Erroneous reliance on the testimony of prosecution witness TFI – 071 on crimes in Kono The following references to the trial judgment should be inserted – **Paras 1174, 1175**

14. Paragraph 78 at page 42 line 3

Witnesses and not **wlnesses**.

15. Paragraph 80 at page 43

The subheading should read "**Subground** 8.7 (Identification) "and not **Subgrounds** 8.7

16. Paragraph 81 at page 44 Last line

Should read Tongo **field** and not Tongo **fields**.

17. Paragraph 82 page 44 Line 2

Application and nat **applicaton**.

18. Paragraph 88 at page 47 line 7 After footnote 244:

"Not being an AFRC Council member himself, his conclusion that that he saw the Appellant most times in Freetawn and at AFRC COUNCIL meetings defeats the Court's finding that the Appellant often had difficulty in travelling to Freetown due ta Kamajor ambushes on the road" **(insert reference to Par 774 of the trial judgment)**

19. Paragraph 89, at page 47

The last sentence of the paragraph should read: -The contents of sub-ground 9.0 – 9.6 in the amended notice of Appeal **are wholly referred to and relied upon in this brief**

20. Paragraph 98 at page 52

References to the Trial Judgment should be indicated against the following witnesses:

TFI – 054 **Paras 1010-1014 PP315-316 of the Judgment**, TFI – 004 **Paras 993-1005 pp 311-314 of the Trial Judgment** and DMK -160 **paras 1010-1014 pp 315-316 of the Judgment**

An additional sentence should be added at the end of **paragraph 98** as follows: - **Prosecution witness TFI – 054 did not identify the accused as Prosecutor v. Sesay et al. SCSL-04-15-A**

being present in BO. TFI – 004 did not implicate the Appellant in relation to the events in BO while defence witness DMK – 160 credibly demonstrated the Appellant's absence from BO during the commission of the various crimes.

21. Paragraph 103 at page 53-Line 9-

It is further submitted that because the Appellant played....

Delete "no significant"

22. Paragraph 112 page 57 Line 1 should read:

The Appellant Wholly.... - and not **wholesomely**

23. Paragraph 114 page 58

The heading just before Paragraph 114 should be **Ground 11**: Kono crime location – Errors of law & fact – JCE and not **Ground 11 (A)**...

Immediately after the sub – heading add the following explanatory statement "The Appellant argues sub-grounds 12.1 to 12.27 together"

24. Paragraph 120 Page 61 in the second last line

Negates and not negatives

25. Paragraph 128 page 64

The main heading before that paragraph should read "Ground 11...."

And not "Ground 11 B....."

26. Paragraph 137 page 67 Second line

Should be "....contributed to the killing of the woman" and not "contributes...."

27. Paragraph 138 page 68 Second line

Delete one "that" just before "Kallon, although a senior..."

28. Paragraph 140 page 69 line 1 should be

"The Appellant submits that elements of Superior responsibility..." - not superior responsibilities

Also at Paragraph 140, page 70

Immediately after footnote 365- it should read: "It is submitted that from the Chamber's own findings there is no credible showing that, assuming he had command authority in Kissi Town –which is denied, the Appellant was put on notice of the crimes by his alleged subordinates in Kissi Town; or that he knew of the criminal conduct and intent of sufficiently identified subordinates " and not "subordinates and sufficiently identified them"

29. Paragraph 152 page 77 The subheading just before Paragraph 152 should read

"...The Appellant argues these subgrounds together"

Paragraph 152 page 77 Line 5 after foot-note 406 it should read- Submitted and not sumitted.

The same **Paragraph 152 page 77** Line 7

It should read "for which he had no proper notice" and not "for which he had no or no proper notice"

30. Paragraph 169 page 86

The following words should be added at the beginning of the first sentence "The Trial Chamber was under an obligation..."

31. Paragraph 171 page 87 Second line.

The locations referred to should be Tombodu and Koidu town and not Rembodu.

32. Paragraph 184 page 90 Line 2

Moreover not moerever.

33. Paragraph 190 page 92 Line 5

"The Appellant submits that rather than require of the Prosecution to prove its case ..."

not hls case

34. Paragraph 197, page 94 Line 4 Should read:

"When the witness testified in the Taylor trial he was not able to tell his age. Indeed the age which he had provided in his witness statement turned out to be different from that on his birth certificate which demonstrated he could not..."-

35. Paragraph 201 page 96 Line 7

Prosecutor v. Sesay et al. SCSL-04-15-A

Porograph and not poragaraph

36. Paragraph 239 page 109

The heading just before paragraph 239 should read:

"Error in relation to Appellant's alleged role in the crime of enslavement **in Kallahun**"

37. Paragraph 258, page 115 Line 5

Add the ward **to**, to read "It is further submitted that according **to** witness Brigadier....."

38. Paragraph 266, Page 119 line 5

The sentence starting with "the finding at para 2257" Delete "**an**" after the word "**equally**."

39. Paragraph 266, page 119 line 7

The sentence starting with "the appellant submits that....." "Exculpates Mr. **Kallon** and not **Kallan's**

40. Paragraph 276, page 123

At line 3 after footnate 616 odd the word "**principle**" to read: "the Chamber erred in failing to apply the legal **principle** ..."

41. Paragraph 276, page 123

Line 11 after footnote 619 remove the word "**stated**" to read: "**without a showing that the Appellant knew that the participation of the alleged subordinates in the specified attacks at paragraph 2290 of the judgment**"

42. Paragraph 279, page 125

Line 3 should read: "**September 2000**" and not "**Septemb 293er:**"

43. Paragraph 279, page 125

Line 7 after footnate 629 should read: "the Chamber's finding that Kallon had the ability to inflict **punishment**, sighting instances and acts unconnected to the acts and **conduct** of his alleged subordinates whose unpleaded and unspecified transgressions he was found **liable** as a superior commander..... "

44. Paragraph 281, page 126

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The first line should read "considering the above, the **Trial Chamber's** finding that it was 'highly unlikely that Kallon would be afraid to arrest Koilondo, acting on Sankoh's instructions, is therefore erroneous as there is more than sufficient evidence to infer the alternative reasonable inference that **Kallon had no effective control over him** and so could not and had no authority de facto or de jure to arrest him."

The last sentence at **Paragraph 281, at page 127** should read:

"The Appellant submits that **the position of Battle Group Commander relied on by the Chamber above was not pleaded in the indictment** and was never proved to exist within the RUF command structure"

45. Paragraph 283, page 128

The first sentence should read "For example Brigadier Ngondi testified that Kallon **assaulted** and arrested Mojour Jaganathan"

The second sentence should read "According to Lt. Col Mendy Jaganathan told him that it was Gboo **who** "secured" him....."

46. Paragraph 285, page 129

At line 4 the sentence "**these witnesses supported the alibi of the Appellant and also supported his Defence of Identification**" should be deleted and replaced with the following sentence "**witnesses DMK 108 (transcripts of 29th April, 2008 pages 64-70) and DMK 015 (transcripts of 1st May, 2008 pages 40-42) supported the alibi of the Appellant and also supported his Defence of Identification**"

47. Paragraph 286, page 129

At line seven after the word statute there should be a new paragraph and sub heading "**Error relating to mens rea**"

48. Paragraph 286, page 129

At line 6 delete the word **held** after 2311 in the sentence "The Chamber held at paragraph 2311..."

49. Paragraph 286, page 129

At line 8 remove the second "**Mens rea**" from the sentence starting with "**Although the Chamber found...**" to read: "**Although the Chamber found that the Mens rea of Count 15 was Specific Intent, the Court made no finding on this element of the crime....**"

50. Paragraph 291, page 131

At the end of line 2 starting with "the Chamber..." should read: "the Chamber used an Article 6(3) Theory" in place of mode.

51. Paragraph 293, page 133

The last word at line 3 should be Transcript and not Trannscript

52. Paragraph 301, page 136

The whole of paragraph 301 should be deleted

53. Paragraph 308, page 140 Line 3

Delete the word to between "particularly" and "Alhaji"

54. Paragraph 311, page 141

At line 1 from the words "the Trial Chamber cited..." delete the word "to" after cited

B. ERRORS IN THE FOOTNOTES**1. Footnote 2, page 1, line 1**

Prosecutor and not prosector

2. Footnote 38, page 9, line 2

An before another should be removed

3. Footnote 88, page 18

Should be Morrisette – supra- note 84

4. Footnote 113, page 23 line 1

In the citation "Prosecutor v Stakic" the letter k after letter y should be removed.

5. Footnote 397, page 75

The first sentence should end at "trial judgment." followed by the following sentence: "Rather than examining ... criminal conduct, the trial chamber concentrated its entire..... his only identified culpable subordinate."

6. Footnote 544, page 107

Should read ground "1 (2.6)" of the Amended Notice.

7. Footnote 598, page 120

At the end of the first line replace the word "any=thing" with "anything"

8. Footnote 625, page 124

At line 1 replace the word "paragaraph" with "paragraph"

9. Footnote 625, page 124

At line 5 replace the word "woul" with "would"

C . REVISED TABLE OF CONTENTS-ANNEXED

DATED THIS 17TH DAY OF JUNE 2009

PP..... *Charles Taku*

Charles Taku-Lead Counsel

PP..... *Kennedy Ogeto*

Kennedy Ogeto-Lead Counsel