



U.C. BERKELEY WAR CRIMES STUDIES CENTER
SIERRA LEONE TRIAL MONITORING PROGRAM
WEEKLY REPORT

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Trial Chamber II – AFRC Trial

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Summary

This week saw one final Kanu individual witness, and the cross examination of two Kamara witnesses who gave their evidence in chief last week. We also saw one common defence witness examined and the first of the common defence expert witnesses took the stand.

Witness testimonies

The testimonies heard this week sought to paint a different picture of events covered by the indictment than that presented by the prosecution. Following on from the testimony of previous weeks, witnesses claimed that a number of atrocities attributed by the prosecution to AFRC-controlled SLA troops were in fact committed by RUF soldiers, and three Accused were not in effective command over troops committing many of the prohibited acts laid down in the indictment. The testimony of defence witness TRC-01, however, stands out. He seems to have *affirmed* rather than negated many of the prosecution's claims pertaining to command, control and discipline within the SLA. His testimony is also in large part contrary to the findings of the defence expert witness on military matters heard later in the week.

Kanu individual witness

DBK-117: Witness is male, born in Freetown in 1967. He joined the Sierra Leone Army in 1992 and now serves as a private.

The witness testified about events in Kono during the AFRC coup and after the ECOMOG intervention. He claimed that the RUF and the SLA did not operate together in the Kono District, and that the RUF often attacked SLA soldiers and forced those

soldiers they captured to fight for them. The witness maintained that the so-called 'Peoples' Army' did consist of some SLA personnel, but was commanded by the RUF. He also maintained that the RUF were in control of the mining operations in Kono, and that it was RUF personnel commanded by Superman who burned civilian property in Koidu Town. The witness also claimed he never saw any of the three Accused in Kono, and that he never heard of Kamara ordering the burning of houses in Koidu Town.

Cross-examined by the prosecution: The witness testified that he knew that Brima and Kanu were referred to as 'Honourables'. He claims, however, that he did not know whether any of the three Accused were involved in the overthrow of the SLPP government. He testified that all the soldiers in the Kono District followed the orders of their superior officers, and claimed never to have heard of 'Operation Pay Yourself'. The witness claimed that the RUF forced civilians to carry equipment for them, had child soldiers in their ranks, and carried out amputations. He rejected claims that these atrocities were carried out by a joint SLA/RUF force. He also rejects claims that Kamara was the overall commander of the SLA in Kono or that Kamara was involved in planning the operations he has testified about. The witness maintained that he had not seen Kanu in Kono and did not know whether Kanu was involved in the fighting in the District.

Common witnesses

TRC-01: Witness is male, and has held several important positions both in the military and in the civil administration in Sierra Leone. The witness has been granted protective measures, and due to the danger of recognition part of his evidence was given in closed session.

The witness testified that from 1991 to 1997 there was a lot of 'hurried recruitment' to the Sierra Leone Army. He claimed that background checks were not performed for new recruits, that discipline deteriorated and that training was short and of insufficient quality. Prior to 1991 he testified that recruitment occurred by means of a patronage system, and employment in the army was based more on nepotism and connections than on merit and suitability. The witness claimed that in 1992 the SLA consisted of some 5000 to 8000 men, while by 1996 the army had swelled to some 15000 to 17000 men. By 1996 the witness also claims the army was supported by a large number of irregular troops – members of local civil defence organisations and militia groups, who had not undergone any military training at all.

The witness testified that the normal length of training for new recruits after the start of the civil war in 1991 was six months. He also testified that while the number of people serving in army increased many-fold between 1992 and 1996, the level of funding to the army did not increase proportionately. He maintained that adequate supply of provisions and logistical organisation was made difficult by a shortage of funds. He claimed there was a shortage of uniforms and boots and a lack of appropriate troop-carrying vehicles. He testified that information about cuts in pensions for retired or wounded soldiers caused some anger amongst the troops. He also testified that the quality of commanders on the ground was sometimes sub-standard.

The witness also testified that the level of supply of ammunition actually improved between 1992 and 1996, and while there were shortages this did not fundamentally affect the morale or professionalism of SLA troops. The witness maintained that some of the militia groups also engaged in fighting the RUF – specifically the Civil Defence Force and the Kamajors - committed atrocities against civilians and even summarily executed SLA soldiers they felt hindered their cause. He maintained that the relationship between senior and junior ranks in the SLA was good.

The prosecution raised a large amount of objections during the examination in chief of this witness on the grounds that the defence was largely seeking to elicit opinion evidence from the witness rather than asking him to give testimony about events and facts of which the witness had direct knowledge. The prosecution pointed out that this witness was called as a common witness, not as an expert. The defence sought to tender the report this witness had produced for the Sierra Leone Truth and Reconciliation Commission as evidence, something the Bench denied on the grounds that the report was a collection of the witness' opinions rather than statements of fact.

Cross-examination by the prosecution: The witness admitted that he knew that all the three Accused formed part of the group responsible for the overthrow of the SLPP government. He also confirmed the prosecution's claim that Brima was nick-named 'Gullit'. He claimed he did not know whether any of the three Accused were referred to as 'Honourables'. The witness also agreed with the prosecution's assertions that JP Koroma asked the RUF to join the AFRC government, and that the AFRC government consisted of both SLA and RUF personnel and was referred to as the 'People's Army'. The witness also agreed that senior RUF commanders like Sam Bockarie, Gibril Massaquoi, Mike Lamin and Denis Mingo (aka 'Superman') formed part of the AFRC government. The witness maintained that parts of the country such Lungi and Kono were areas where AFRC troops could not operate.

According to the witness, all the three Accused were members of the AFRC Supreme Council. He also alleged that Brima was the most senior SLA commander in the AFRC government after JP Koroma and SAJ Musa. However, he refuted claims that Kamara and Kanu were some of the most senior members of the AFRC government.

The witness was allegedly aware that SAJ Musa and Brima were commanders of the AFRC forces in the jungle after the ECOMOG intervention had forced that AFRC out of Freetown. He did, however, claim he had not heard of Kamara or Kanu commanding forces in the jungle. The witness had heard that Brima and Kanu were part of the SLA troops that attempted to retake Freetown from ECOMOG. He claimed he had not heard that Kamara was part of this group. He claimed he did not know whether SLA troops killed civilians on their retreat from Freetown, but he was aware that SLA troops had burned civilian property and abducted civilians – including children as they retreated from the capital. The witness also maintained that he had not heard of SLA soldiers amputating limbs, and that he was under the impression that it was the RUF who amputated the arms and legs of civilians.

The witness claimed he did not know whether Kamara was commander in chief of the West Side Boys, nor whether Kamara had led a delegation to negotiate with JP Koroma in Liberia in 1999.

The witness testified that while he was at the front between 1992 and 1996 there was enough ammunition available, a functioning medical system for the soldiers existed, that the command and control systems were adequate and functional, but that there were some logistical shortcomings. The witness maintained that the SLA soldiers remained disciplined and professional even in the face of frictions with CDF militias and a constant battle with the RUF. He also maintained that SLA soldiers were well trained in the laws of war, and that even irregular forces were familiarised with the basic tenets of international humanitarian law. The witness claimed that between 1992 and 1996 SLA and pro-government militia groups complied with the laws of war.

The witness further maintained that the RUF were not a well-trained, disciplined military force. He claimed they were better described as bandits than military men.

Re-examination by council for the first Accused (Brima): The witness maintained that the AFRC troops after 1997 were not operating as a traditional military organisation. He claimed that because the SLA had teamed up with the RUF there were no longer any command structures in place, there was no longer any policy on uniforms and there was no longer any discipline and order in the ranks. He also claimed that this force did not operate according to any strategy, but rather haphazardly engaged in military operations aimed solely at keeping the group of soldiers alive.

Common defence expert witness on military matters: Major General Prins

The major general's testimony and cross-examination ran over four days and therefore stretches into next week.

The expert witness has served in the Netherlands armed forces since his graduation from the Royal Netherlands Naval Academy in 1970. He has been a commanding officer on several military missions and training exercises, has had the overall responsibility for the Netherlands Marines and has commanded the Dutch contribution to several multinational military endeavours. He also served as a Brigadier General with command over all Netherlands forces in the Caribbean. He is a highly experienced military man, and he has received several decorations for his service. He has also been attached to the Centre for Strategic Studies in the Hague.

Major General Prins was asked by the defence to answer four broad questions: (1) did the AFRC forces have a defined hierarchy and structure, (2) what kind of organisation was the AFRC / what were its characteristics / did it exhibit the characteristics of a traditional military organisation, (3) was there coherence between the strategic and tactical goals of the AFRC and (4) did the AFRC and the RUF at any point operate a joint military structure.

On the basis of interviews (with, amongst others, the gentleman testifying before the Court under the pseudonym TCR-01) and a survey of available literature and research on the topic the Major General had compiled a report addressing these questions.

The Major General found that from about 1992 the number of SLA soldiers ballooned and the quality of recruits and training deteriorated accordingly. The Major General found evidence of unmerited promotions on a large scale, something which meant that unqualified soldiers rose in the ranks. He also found that low salaries were paid to junior officers, while senior officers were cashing in disproportionately large pay cheques. The Major General therefore concluded that morale in the SLA was generally low.

The Major General also concluded that the AFRC forces did not have the characteristics of a traditional army. He found that in the period following the ECOMOG intervention several factions of AFRC-loyal SLA soldiers operated in parallel without significant degrees of communication. He found no 'lessons learned' mechanisms, no evidence of rules of engagement, no disciplinary system, only very limited training of recruits, no systems for supplies distribution, no evidence of logistic planning and limited, if any, system for the payment of soldiers. He also found that AFRC forces did not operate with fixed formations or with appropriate uniforms. Major General Prins also found that there was no evidence of strategic planning or political oversight in the activities of the AFRC-controlled SLA units after the ECOMOG intervention. On the basis of these findings Major General Prins concluded that the AFRC forces did not operate like a regular force, but instead had characteristics more akin to a guerrilla or rebel group.

The Major General also concluded that the AFRC forces did not have a command structure of the type found in regular armies. He found that AFRC commanders would directly instruct battalions of about 100 men and that within this group of men few, if any, lines of leadership existed. He also found that where there were junior officers, very few were qualified for the duties and responsibilities such a position entails. The Major General therefore concluded that the AFRC did not have a recognisable hierarchy or command structure.

Lastly, Major General Prins found that there was no relationship between the RUF and the AFRC strong enough to merit the conclusion that they operated as a joint force. He found evidence of widespread and endemic distrust between senior personnel of the two groups, and found no evidence of any effective joint command structure.

Cross-examination by the prosecution: In an attempt to establish the quality and depth of the Major General's research, the prosecution sought to establish how familiar the Major General was with events in Sierra Leone in general and with the AFRC in particular. It became clear that during his research the Major General had come across information indicating that Brima participated in the 1997 coup and that his nick-name was Gullit, but that he had not come across information indicating that Kamara or Kanu took part in the 1997 coup. The Major General claimed he had not come across information indicating that Brima or Kamara were members of the AFRC Supreme Council.

It also became clear that the witness had only been to Sierra Leone twice before flying in to give evidence. Prior to his arrival this time he had only spent a total of about four weeks in the country. The Major General did not travel outside Freetown on any of his trips.

The prosecution suggested that the Major General's primary sources of information were in fact not in a position to know what they were talking about. It was pointed out that one interviewee (who has testified before the Court under the pseudonym DSK-082) did not have personal knowledge of the AFRC factions as they operated in the bush as he had not spent any time with the troops in the jungle. The prosecution also maintains that DSK-082 was investigated for allegedly helping JP Koroma escape from Sierra Leone, and that he is thus not necessarily a reliable and disinterested witness. The prosecution further suggested that a second interviewee was also not with the AFRC factions in the jungle. The third interviewee cited in Major General Prins' report led his own AFRC unit in the jungle, and it was therefore suggested by the prosecution that he was in no position to comment on how SAJ Musa's group operated. The prosecution also pointed out that a fourth interviewee (TRC-01) was not in the jungle with the AFRC, and that this man gave evidence before the Court that contradicts the Major General's conclusions. Sam Mboma, also interviewed by the Major General, was not in the jungle with the AFRC faction. The prosecution therefore suggested that Major General Prins' report is largely based on the assumptions and opinions of others.

The prosecution also suggested that the Major General's secondary source material was incomplete. It is pointed out that the Truth and Reconciliation Commission report is less than thorough in its treatment of the AFRC factions' operations in the jungle, and that statements made before the TRC are not given under oath and not tested by cross examination. It is therefore suggested that factual information in the TRC report is not necessarily reliable. The prosecution also suggests that relying on David Keen's book 'Conflict and Collusion' may not be appropriate. Keen himself acknowledges in the introduction to the work that not all opinions expressed in the book are have been substantiated or are universally shared. It is also pointed out that the Major General has referenced 'Wikipedia' as a source of information – a source the prosecution maintains is not reliable.

The prosecution confronted the Major General with transcripts of testimony by defence witnesses where it was maintained that SLA soldiers followed orders and that the SLA had an effective command system under SAJ Musa in the jungle. The prosecution also suggested that information that has come to light during the defence case which indicates that the SLA had communications equipment and a system allowing for effective communication between units. Evidence before the court also indicates that a minimum of three months training was given to SLA recruits, and that this training included instruction on the laws of war. These statements contradict the Major General's conclusions. The prosecution also suggested that the Major General's conclusion that the SLA was not a functioning military organisation is negated by the fact they kept the RUF at bay for nearly six years.

The prosecution also suggested that the criteria Major General Prins relied on to determine whether the AFRC is a military structure are unreasonable. The prosecution maintained that operating according to rules of engagement is not a defining characteristic of a military organisation – pointing out that Napoleon’s army most certainly did not have rules of engagement. The prosecution pointed out that the Major General’s conclusion to the effect that the AFRC was not a *traditional* military organisation did not negate the prosecution claim that it was an *effective* one.

DBK-129: Cross-examined by the prosecution on evidence given last week.

The witness maintained that as a soldier he followed the orders of his commanding officers, and that the other soldiers he knew did the same. He claimed that at the West Side soldiers also followed orders and that they would be punished if they did not.

The witness claimed he played for the army football team, and disputed prosecution claims about the identity of the other players. He even disputed that the individuals mentioned by the prosecution were football players at all. He claimed he did not know whether the three Accused were involved in the overthrow of the SLPP government. The witness also claimed he did not know whether J.P. Koroma ordered ‘Operation Pay Yourself’ at Masiaka, and he refuted prosecution claims that Kamara was the overall commander of the military forces in Kono. The witness maintained that it was Superman who controlled the armed groups in Kono. The witness also refuted prosecution claims that Kamara was the overall commander at West Side, and maintained that this was in fact Junior Lion. He further maintained that it was Junior Lion, not Kamara, who ordered the killing of civilians at Mamamah, the burning of houses at Mile 38 and the attack on Port Loko.

DBK-012: Cross-examined by the prosecution on evidence given last week.

The witness knew that the term ‘Honourable’ referred to members of the AFRC who took part in the overthrow of the SLPP government, but he claimed he did not know whether Brima or Kamara were referred to as ‘Honourables’. The witness denied that Brima was ever referred to as ‘Gullit’, but was aware that Brima was PLO 2 in the AFRC government and that that Kamara was PLO 3. He did, however, refute prosecution claims that Brima, Kamara and Kanu were members of the AFRC Supreme Council.

The witness denied that J.P. Koroma ordered ‘Operation Pay Yourself’ at Masiaka. He also disputed prosecution claims that Birma was the overall commander of the troops advancing to Rosos and Colonel Eddie Town, and that he remained second in command upon SAJ Musa’s arrival in Colonel Eddie Town. The witness denied that Brima was communicating with Mosquito when in Colonel Eddie Town, and that Brima ordered the attack on Kakuna. He also denied that the attack on Kakuna was led by Kanu.

The witness refuted claims that Kamara became second in command and Kanu third in command after the death of SAJ Musa. He also denied that he was himself involved in

the burning of civilian property or killing and amputation of civilians during the re-invasion of Freetown in 1999. The witness denied that Kanu killed civilians at Kissi Mosque, ordered the burning of Kalaba Town or ordered the live burial of a crying infant near Waterloo during the retreat from Freetown. The witness denied any knowledge of SLA troops burning civilian property, killing, abducting or mutilating civilians or using child soldiers on the retreat from Freetown.

The witness rejected prosecution claims that he was lying in court to express gratitude to one of the defence council who had secured his release from Pademba Road Prison where he was held under charges of assault and conspiracy. He also refuted claims that he was currently having a relationship with one of Kamara's sisters and that she lives with him.

Contact between defence council and defence witnesses while the witness is giving testimony

Lead council for the first Accused, Mr Knoops brought to the Court's attention to the fact that he and the military expert witness for the defence, Major General Prins, were staying in the same hotel in Freetown. He was cautioned by the Presiding Judge not to interact with the Major General while he was still giving evidence¹.

On Friday 20 October the prosecution brought to the Court's attention that Mr Knoops had dined with Major General Prins while he was still in the process of testifying, contrary to the Bench's advice. Presiding Judge Lussick expressed in no uncertain terms that going against the direct advice of the bench and dining with a witness still in the process of giving evidence was unacceptable. He reminded Mr Knoops that even if the two of them had not discussed the evidence during their meal the perceptions of the public is important, and that contact with a witness while he is still giving evidence erodes public confidence in the administration of justice. Justice Sebutinde seconded the Presiding Judge Lussick's concern with the situation.²

¹ *The Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu* (SCSL-16-488), Transcript of proceedings, 17 October 2006, p 108 lines 9-11.

² *The Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu* (SCSL-16-488), Transcript of proceedings, 20 October p 141-144.