

2.5.3.4.2. Assault on TF2-156 and Killing of his Brothers

480. Around 22 February 1998,<sup>934</sup> a local man named Sorie was chased by Kamajors who were armed with cutlasses, knives and guns.<sup>935</sup> The Kamajors captured TF2-156, his two brothers, Sorie and an unidentified man. Kamajors chopped at TF2-156 with a machete and cut his foot, stomach, chest and face.<sup>936</sup> TF2-156's lip was split in three places; two of his teeth were knocked out and one tooth was broken.<sup>937</sup>

481. The Kamajors chopped at TF2-156's brothers with machetes and killed them.<sup>938</sup> Sorie and the unidentified man were also killed.<sup>939</sup> The Kamajors thought TF2-156 was also dead and left him lying beside the bodies of these four people.<sup>940</sup>

2.5.4. Arrival of ECOMOG in Bo

482. On the 23<sup>rd</sup> of February 1998, ECOMOG entered Bo Town.<sup>941</sup> ECOMOG was unable to control the Kamajors.<sup>942</sup>

2.5.4.1. Crimes committed by Kamajors After the Arrival of ECOMOG

2.5.4.1.1. Looting of TF2-056's House

483. Sometime after the arrival of ECOMOG in Bo, Kamajors came to TF2-056's house and frightened him. The Kamajors took TF2-056's television, freezer, water filter and some other items.<sup>943</sup> They accused TF2-056 of being a junta soldier and said they were taking the items because they had belonged to the junta.<sup>944</sup> TF2-056 was not a junta; the items taken by the Kamajors were his personal property.<sup>945</sup>

<sup>934</sup> TF2-156 says that it was one day before the arrival of ECOMOG: Transcript of 25 November 2004, p.48.

<sup>935</sup> Transcript of 25 November 2004, TF2-156, p. 64.

<sup>936</sup> Transcript of 25 November 2004, TF2-156, pp. 41-43.

<sup>937</sup> Transcript of 25 November 2004, TF2-156, p. 45; see also Exhibit 101 and Exhibit 102.

<sup>938</sup> Transcript of 25 November 2004, TF2-156, p. 46.

<sup>939</sup> Transcript of 25 November 2004, TF2-156, p. 49.

<sup>940</sup> Transcript of 25 November 2004, TF2-156, pp. 48-50.

<sup>941</sup> Transcript of 6 December 2004, TF2-056, p. 72; Transcript of 25 November 2004, TF2-030, pp. 11-12, Transcript of 25 November 2004, TF2-156, p. 48, Transcript of 6 December 2004, TF2-056, p. 72, Transcript of 23 November 2004, TF2-119, p. 122.

<sup>942</sup> Transcript of 7 December 2004, TF2-056, pp. 93-94.

<sup>943</sup> Transcript of 7 December 2004, TF2-056, pp. 86-88.

<sup>944</sup> Transcript of 6 December 2004, TF2-056, pp. 72-73.

<sup>945</sup> Transcript of 7 December 2004, TF2-056, pp. 86-88.

2.5.4.1.2. *Capture of TF2-067 and Targeting of Temnes*

484. TF2-067, a young Temne boy, was captured by Kamajors when they forced their way into his house. The Kamajors searched the house for arms and ammunition, but did not find any.<sup>946</sup> The Kamajors were also searching for Temne people. They told TF2-067 that they were searching for Temnes because Temnes were soldiers and were bad people. The Kamajors captured TF2-067 to try to induce his father, who is also Temne, to come out of hiding; however, TF2-067's father did not appear. The Kamajors left TF2-067 and went to search other houses.<sup>947</sup>

2.5.4.1.3. *Looting by Kamajors at TF2-067's House*

485. A group of Kamajors came to TF2-067's house and took items which belonged to people that lived with him. The Kamajors took a freezer, a tape recorder, a radio and a video. They tried to take a double bed, but it was too large for them to carry.<sup>948</sup>

486. The actions of these Kamajors were reported to ECOMOG who came immediately to the house. The Kamajors ran away. ECOMOG told the inhabitants of the house to make a list of looted property taken by the Kamajors.<sup>949</sup>

487. After ECOMOG left, the Kamajors returned to TF2-067's house and retrieved items which they had left behind.<sup>950</sup>

488. TF2-067 observed Kamajors breaking into people's shops and houses to loot property.<sup>951</sup>

2.5.4.1.4. *Beating of a Pastor by Kamajors*

489. A pastor was staying at TF2-067's house. One day, after Kamajors had been to the house, the pastor put on a pair of slippers which had been left behind by the Kamajors. When the Kamajors returned and saw that the pastor was wearing the slippers, they beat him. The Kamajors kicked the pastor and hit him with the butts of their guns until blood began to ooze from his nose.

<sup>946</sup> Transcript of 1 December 2004, TF2-067, pp. 29-30; Transcript of 29 November 2004, TF2-057, pp. 114-115.

<sup>947</sup> Transcript of 30 November 2004, TF2-067, pp. 87-89.

<sup>948</sup> Transcript of 30 November 2004, TF2-067, pp. 90-92.

<sup>949</sup> Transcript of 30 November 2004, TF2-067, pp. 92-95.

<sup>950</sup> Transcript of 30 November 2004, TF2-067, pp. 95-97.

<sup>951</sup> Transcript of 30 November 2004, TF2-067, pp. 99-100.

The pastor was crying but could do nothing. TF2-067 heard the Kamajors question the pastor in Mende.<sup>952</sup>

2.5.4.1.5. *Killings by Kamajors in a Park*

490. A Temne man was arrested in a park by Kamajors because they thought he was a Temne. When the man protested that he was not a Temne, he was shot. As they left, the Kamajors purposefully stepped on the man's body.<sup>953</sup> Later in the evening, Kamajors burnt the Temne man's body.<sup>954</sup>

2.5.4.1.6. *Arrest of TF2-067 and his Father*

491. TF2-067 and his father were arrested and taken to Kamajor headquarters at 88 Mahei Boima Road.<sup>955</sup> On the way to the headquarters, the Kamajors also arrested TF2-067's uncle. TF2-067's uncle was held at gunpoint and the Kamajors asked him if he was a Temne. TF2-067's uncle was also brought to the Kamajor headquarters.<sup>956</sup>

492. TF2-067's father and uncle were placed with other adults while TF2-067 was placed with children his own age and younger. TF2-067's father spoke in Mende to the Kamajors. The eldest Kamajor, who was the leader of a group of small boys, ordered the release of TF2-067's father. TF2-067's father requested the release of TF2-067 and TF2-067's uncle. The Kamajors released TF2-067, but refused to release TF2-067's uncle because his uncle did not speak Mende. TF2-067 has not seen his uncle since.<sup>957</sup>

2.5.4.1.7. *Killing of a Former Soldier by Kamajors at a Checkpoint*

493. When leaving Bo Town, TF2-067 was stopped at three checkpoints. At the first checkpoint, he saw Kamajors capture a man that they believed to be a former soldier. The man denied the Kamajors' allegations. One of the Kamajors announced that they would kill the man

<sup>952</sup> Transcript of 30 November 2004, TF2-067, pp. 95-99.

<sup>953</sup> Transcript of 1 December 2004, TF2-067, pp. 4-6.

<sup>954</sup> Transcript of 1 December 2004, TF2-067, pp. 43-46.

<sup>955</sup> Transcript of 29 November 2004, TF2-057, pp. 117-119; Transcript of 30 November 2004, TF2-057 p. 71; Transcript of 1 December 2004, TF2-067, pp. 7-10.

<sup>956</sup> Transcript of 1 December 2004, TF2-067, pp. 7-10.

<sup>957</sup> Transcript of 1 December 2004, TF2-067, pp. 7-10.

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because he was arguing. TF2-067 saw one Kamajor shoot the man. This killing was also witnessed by a large group of people passing through the checkpoint.<sup>958</sup>

494. At the second checkpoint, Kamajors who called themselves "Black December" stopped the group with whom TF2-067 was travelling. The Kamajors questioned the leader of the group and then allowed them to pass. At the third checkpoint, the leader of the group was again questioned before the group was allowed to pass.<sup>959</sup>

2.5.4.1.8. *Arrest and Beating of a Limba Man*

495. A Limba man was arrested and taken to the Bo District Commander, Kosseh Hindowa, at the Kamajor headquarters located at 88 Mahei Boima Road.<sup>960</sup> The Limba man was beaten in front of Hindowa. He had been arrested because the Kamajors suspected that his daughter was in love with a junta. TF2-056 spoke with Kosseh Hindowa and denied the Kamajors' suspicions. Hindowa requested 100,000 leones for the release of the Limba man.<sup>961</sup> TF2-056 paid the money and the man was released. The Limba man had welts all over his body and was in pain; he died one month later.<sup>962</sup>

2.5.4.1.9. *Arrest and Cruel Treatment of Two Limba Men*

496. Two Limba men were arrested by Kamajors who forced the captives to remove their clothing and tied them with FM rope. The Kamajors planned to put pepper on the prisoner's genitals. TF2-056 offered Moses Sandy, a Kamajor Commander from Koribondo, 110,000 leones for the release of the two men. Moses Sandy accepted the money and demanded 15 bushels of rice. TF2-056 convinced Moses Sandy to accept 10 bushels of rice. The two Limba men were held for two days and were released on the third day.<sup>963</sup>

2.5.4.1.10. *Arrest and Cruel Treatment of a Limba Man*

497. A Limba man accused of being a junta was arrested, undressed and beaten by the Kamajors. They forced the man to roll on the ground over a distance of about 10 metres and then

<sup>958</sup> Transcript of 1 December 2004, TF2-067, pp. 14-19.

<sup>959</sup> Transcript of 1 December 2004, TF2-067, pp. 19-21; Transcript of 30 November, TF2-057, pp. 36-39.

<sup>960</sup> Transcript of 7 December 2004, TF2-056, pp. 81-82.

<sup>961</sup> Transcript of 6 December 2004, TF2-056, pp. 73-75.

<sup>962</sup> Transcript of 7 December 2004, TF2-056, pp. 81-82; Transcript of 6 December 2004, TF2-056, pp. 73-77.

<sup>963</sup> Transcript of 6 December 2004, TF2-056, pp. 77-79.

a Kamajor hit him with a gun. TF2-056, who witnessed the incident, requested the assistance of ECOMOG and paid 300,000 leones to the Kamajor Abu Tawa to secure the release of the Limba man and the return of everything that had been seized by the Kamajors from the Limba man's house. Abu Tawa had requested 400,000 leones but TF2-056 begged him to accept 300,000 leones.<sup>964</sup>

2.5.4.1.11. *Arrest and Beating of a Woman*

498. A Mende woman accused of being a cook for the rebel named Mosquito was captured by a Kamajor commander named Moses Sandy.<sup>965</sup> She was held by ECOMOG at their headquarters and was beaten every day. TF2-056 paid 100,000 leones to ECOMOG and 100,000 leones to the Kamajors to secure the woman's release. Upon determining that the woman was not a cook for Mosquito, the ECOMOG commander released the woman to TF2-056.

2.5.4.1.12. *Killing of TF2-058's Husband*

499. On 27 April 1998, TF2-058 witnessed Kamajors kill her husband in the Duwebu Section of Bo Town. Approximately 15 Kamajors carrying various weapons including cutlasses, RPGs, knives and guns came up behind TF2-058 and her husband as they were walking home. The Kamajors called her husband a junta and began attacking him. He was struck in the eye and then the side with a long knife-like weapon. When he fell, all of the Kamajors stabbed him. TF2-058 ran away.<sup>966</sup> She did not return for her husband's body because she feared that the Kamajors would see and kill her. She did not report the killing or confront the Kamajors because she feared that the Kamajors would kill her or burn down her house.<sup>967</sup>

500. TF2-058 left Bo for two months and returned in early July. She learned that her husband's body had been taken to Gbetema and had been eaten by Kamajors.<sup>968</sup>

2.5.4.1.13. *Killings by Kamajors in a Swamp near Njai Town and at "Washcar"*

501. On 27 April 1998, TF2-058 witnessed Kamajors attack a man in the swamp near Njai Town in Bo. The Kamajors said "Alahu Akbar" as they killed him.<sup>969</sup> That same day, TF2-058

<sup>964</sup> Transcript of 6 December 2004, TF2-056, pp. 79-82; Transcript of 7 December 2004, TF2-056, pp. 66-69.

<sup>965</sup> Transcript of 7 December 2004, TF2-056, pp. 69-74.

<sup>966</sup> Transcript of 3 December 2004, TF2-058, pp. 50-59 and 86.

<sup>967</sup> Transcript of 3 December 2004, TF2-058, pp. 64 and 73-76.

<sup>968</sup> Transcript of 3 December 2004, TF2-058, pp. 69-70.

witnessed Kamajors hack at a man with cutlasses at "washcar" near the Shenge market. They were also saying "Alahu Akbar".<sup>970</sup>

2.5.4.1.14. *Harassment of TF2-156*

502. In order to go to the hospital to receive regular medical treatment, TF2-156 had to pass a checkpoint manned by Kamajors. Each time he passed through the checkpoint, the Kamajors would attack, arrest or harass him. On one occasion, the Kamajors arrested him and held him captive for a short time. They called him a junta and said that the next time they captured him they would eat him.<sup>971</sup>

2.5.4.1.15. *Mistreatment of TF2-119 at the Brigade Junction on the Bo-Freetown Road*

503. On 26 March 1998, TF2-119 was discharged from Bo Government Hospital and referred to Kingtom Hospital in Freetown for further medical treatment.<sup>972</sup> He travelled to Freetown with his younger brother. On the way there, they were stopped by Kamajors at a checkpoint at Brigade Junction on the Bo-Freetown Road. Although TF2-119 was on crutches because of a broken leg, he was harassed by the Kamajors who demanded authentic documents to enable him to pass through.<sup>973</sup>

504. Meanwhile, TF2-119's brother was taken to a booth and accused of being a collaborator. About 30 Kamajors surrounded TF2-119 and threatened to kill him. The Kamajors dragged, pulled and shoved TF2-119. He fell to the ground, crying. TF2-119's plasters were removed. One Kamajor asked for a weapon to be brought to him and another took an AK-47. TF2-119 was dragged to an open pit behind the booth in which there lay naked male bodies. One Kamajor tried to push TF2-119 into the pit but TF2-119 held onto the Kamajor trousers and shouted. TF2-119 was rescued from this ordeal by an ECOMOG soldier. TF2-119 does not know if the Kamajors

<sup>969</sup> Transcript of 3 December 2004, TF2-058, pp. 61-62.

<sup>970</sup> Transcript of 3 December 2004, TF2-058, pp. 62-63.

<sup>971</sup> Transcript of 25 November 2004, TF2-156, p. 54.

<sup>972</sup> Transcript of 23 November 2004, TF2-119, pp. 122-123.

<sup>973</sup> Transcript of 23 November 2004, TF2-119, pp. 123-126.

accepted the ECOMOG dealing with the situation but they had to accept it because by then ECOMOG were their superiors.<sup>974</sup>

#### 2.5.5. Organization in Bo after the Kamajor Takeover

##### 2.5.5.1. Norman Orders War Council Members to set up CDF Office in Bo

505. While at Base Zero, Sam Hinga Norman ordered some members of the War Council to go Bo and administer it like Base Zero.<sup>975</sup>

506. In February 1998, the War Council arrived in Bo and set up the CDF office at 88 Mahei Boima Road.<sup>976</sup> The CDF office was run by Alhaji Daramy Rogers, the Regional Coordinator.<sup>977</sup> Between March and June 1998, Kosseh Hindowa, the District Administrator, was placed in charge of the CDF office and the Kamajors in Bo Town.<sup>978</sup>

##### 2.5.5.2. Establishment of the War Office, Later Called the Peace Office, in Bo

507. Once the members arrived in Bo, the War Council ceased holding meetings. The War Council lost its functional capacity both as an administrative body and an advisory body. There was no administrative structure in Bo to effectively control the Kamajors.<sup>979</sup> They ignored the chain of command and did not follow orders.<sup>980</sup>

508. In June 1998, the resident Minister, Honourable Foday MB Seisay established the War Office.<sup>981</sup> It was located in the Shenge Section of Bo Town at 42 Mahei Boima Road.<sup>982</sup> After the

<sup>974</sup> Transcript of 23 November 2004, PW TF2-119, pp. 123-126, see also Transcript of 24 November 2004, TF2-119, pp. 39-40.

<sup>975</sup> Transcript of 16 November 2004, TF2-008, pp. 95-96 & 105.

<sup>976</sup> Transcript of 5 November 2004, TF2-201, pp. 55-56 (CS).

<sup>977</sup> Transcript of 29 November 2004, TF2-088, p. 118; Transcript of 6 December 2004, TF2-056, pp. 87-88; Transcript of 20 February 2006, Kenneth Koker, pp. 87-88.

<sup>978</sup> Transcript of 8 February 2006, Peter Penfold, pp. 43-44; Exhibit 168.

<sup>979</sup> Transcript of 23 November 2004, TF2-008, pp. 30-34.

<sup>980</sup> The War Council received reports about the actions of the Kamajors. One such report stated that the Kamajors were not taking orders from their superiors. Orders came from the Director of Operations down the chain of command to the Regional Commander and the Battalion Commander. According to the report, the Kamajors were not following the orders because they were undisciplined. They were consequently uncontrollable: Transcript of 23 November 2004, TF2-008, pp. 30-34.

<sup>981</sup> Transcript of 16 November 2004, TF2-008, p. 115.

<sup>982</sup> Transcript of 20 February 2006, Kenneth Koker, pp. 90-91; Exhibit 168, "Witness Statement of Foday Mohammed Duramani Seisay."

7<sup>th</sup> of July 1999, the War Office became the Peace Office. It was tasked with investigating atrocities and excesses committed by the Kamajors. Fofana was the Director of the Peace Office.<sup>983</sup>

#### 2.5.6. Meetings Held by Sam Hinga Norman in Bo

##### 2.5.6.1. First Meeting: Speech Given by Norman in February 1998

509. About a week after the capture of Bo, Norman convened a public meeting attended by Kamajors and civilians. Norman said that people should not grumble or blame the Kamajors because he is the one who gave directives to Kamajors and he took responsibility for their actions.<sup>984</sup>

##### 2.5.6.2. Second Meeting: Visit to the Hospital

510. In late February 1998, Norman visited Bo Government Hospital.<sup>985</sup> He informed the patients of the capture of Tongo Field, Kenema Town and Bo Town. Norman also spoke about the imminent take over of Freetown and urged people to accept losses and deaths because these occurred in war.<sup>986</sup>

##### 2.5.6.3. Third Meeting: Visit to the New Police Barracks

511. In April 1998, Norman came to Bo with Kondewa, Fofana, Kamoh Lahai, Mammy Munda and other Kamajor leaders. The Chief of police ordered all policemen to attend a parade at the new police barracks. Only 150 policemen attended.<sup>987</sup> Norman complained that the Kamajor chiefs, in particular Fofana, had lied to him about the burnt down police barracks and policemen killed in Bo Town. Norman said that he felt deceived after having seen the barracks intact and the police at the parade.<sup>988</sup>

##### 2.5.6.4. Fourth Meeting: Speech Given by Norman at Bo Town Hall

<sup>983</sup> Transcript of 16 November 2004, TF2-008, pp. 111-115; Transcript of 23 November 2004, TF2-008, pp. 19-23.

<sup>984</sup> Transcript of 10 March 2005, Albert J Nallo, pp. 88-89; Transcript of 8 June 2005, TF2-011, pp. 32-33 (CS).

<sup>985</sup> Transcript of 23 November 2004, TF2-119, pp. 126-127.

<sup>986</sup> Transcript of 23 November 2004, TF2-119, pp. 126-127.

<sup>987</sup> Transcript of 14 February 2005, TF2-001, pp. 98-99; TF2-001 testified that prior to the Kamajor attacks, there were 368 policemen. Transcript of 14 February 2005, TF2-001, p. 99.

<sup>988</sup> Transcript of 14 February 2005, TF2-001, pp. 99-102.

512. Around July or August 1998, a meeting facilitated by the European Union and an NGO called Conciliation Resources was held at Bo Town Hall.<sup>989</sup> It was attended by Norman, Kondewa, Fofana, other Kamajor commanders, initiators and civilians. Norman gave a speech in which he took responsibility for the actions of the Kamajors.<sup>990</sup>

#### 2.5.7. Mongere and Gumahun (Valunia Chiefdom)

513. Mongere is located in Valunia Chiefdom, Bo District.<sup>991</sup> It is approximately two to three miles from Yele, Gbonkolenken Chiefdom, Tonkolili District. Kamajors from all of the chiefdoms in Bo District arrived and took control of Mongere in 1997.<sup>992</sup>

514. In November 1997, the Kamajors occupied Gumahun and its surrounding areas.<sup>993</sup> In Gumahun the Kamajors were disorganized and uncontrolled.<sup>994</sup>

#### 2.5.7.1. Crimes in Mongere and Gumahun Areas, November 1997

##### 2.5.7.1.1. *Threat to Kill by Chief Kamajor James Bundu in Gumahun*

515. On 29 November 1997, TF2-088 sent his son and three of his nephews to retrieve his gun so that he could give it to the Kamajors.<sup>995</sup> Later that day TF2-088 saw his gun in the hands of Kamajors at the court *barri*.<sup>996</sup> Those present included the Battalion Commanders Alhaji Hassan Sheriff, Sundifu Samuka and Joseph Kulagbanda. Gibril Mansaray, the Kamajor Secretary, was also present. James Bundu, the Chief Kamajor, refused to return TF2-088's gun and threatened to kill all the people who had gone to collect it.<sup>997</sup> James Bundu said that anyone who did not join the Kamajors would be considered a rebel.<sup>998</sup>

##### 2.5.7.1.2. *Killing of TF2-088's Nephews and Eldest Son*

<sup>989</sup> TF2-008 stated that this meeting took place sometime during the rainy season in mid-1998: Transcript of 16 November 2004, TF2-008, pp. 115-119.

<sup>990</sup> Transcript of 16 November 2004, TF2-008, pp. 115-119.

<sup>991</sup> The Chamber finds that "Mongere" and "Monger" refer to the same location.

<sup>992</sup> Transcript of 29 November 2004, TF2-088, pp. 89-92.

<sup>993</sup> Transcript of 26 November 2004, TF2-088, p. 93.

<sup>994</sup> Transcript of 25 November 2004, TF2-088, p. 93.

<sup>995</sup> Transcript of 25 November 2004, TF2-088, pp. 95-96.

<sup>996</sup> Transcript of 25 November 2004, TF2-088, pp. 99-102.

<sup>997</sup> Transcript of 25 November 2004, TF2-088, pp. 101-102.

<sup>998</sup> Transcript of 25 November 2004, TF2-088, p. 101.

516. On 29 November 1997, TF2-088's eldest son and two of his nephews were shot and killed by Sundifu Samuka, Joseph Kulagbanda and Wan Mohammed. These three corpses were thrown into the Taia River.<sup>999</sup> A third nephew was shot while attempting to run from the Kamajors but he survived the shooting.<sup>1000</sup>

2.5.7.1.3. *Killings in Mandu*

517. On 30 November 1997, a nephew of TF2-088 named "Daddy" and his nephew's mother, Jeneba, stood amongst the Kamajors and many civilians at the Kamajor Brima Sheki's compound.<sup>1001</sup> Alhaji Hassan, James Bundu, Gibril Mansaray, Sundifu Samuka and Joseph Kulagbanda arrived at the compound and entered the parlour with the Mandu Battalion Commander Earnest Blango Kandapa.<sup>1002</sup>

518. Jeneba was the town mother of Nyandehun when she was captured by the rebels and was forced to cook and care for them.<sup>1003</sup> The Chief Kamajor James Bundu told Jeneba they would kill her because she had joined the rebels. She was shot by Philip Mboma, a Kamajor Battalion Commander based in Mandu. Her neck was cut with a cutlass by Philip Mboma and she fell to the ground and died.<sup>1004</sup>

519. James Bundu accused Daddy of being a rebel because he caught fish for the rebel's king, Smith Joseph.<sup>1005</sup> Philip Mboma cut Daddy in two at the waist with a cutlass. Daddy's intestines fell to the ground and he died.<sup>1006</sup> Gibril Mansaray forced four civilians and TF2-088's younger son to dig a hole and bury the bodies of Jeneba and Daddy.<sup>1007</sup>

2.5.7.1.4. *Mistreatment of TF2-088 at the Court Barri in Gumahun*

520. On the evening of 30 November 1997, at the Gumahun court *barri*, James Bundu asked TF2-088 whether he had called the Kamajors cannibals. When TF2-088 admitted he had done

<sup>999</sup> Transcript of 25 November 2004, TF2-088, pp. 104-105.

<sup>1000</sup> Transcript of 25 November 2004, TF2-088, pp. 107-108.

<sup>1001</sup> Transcript of 25 November 2004, TF2-088, pp. 107-108.

<sup>1002</sup> Transcript of 26 November 2004, TF2-088, pp. 16-19.

<sup>1003</sup> Transcript of 26 November 2004, TF2-088, pp. 19-20.

<sup>1004</sup> Transcript of 26 November 2004, TF2-088, pp. 21-23.

<sup>1005</sup> Smith Joseph was called the rebel king because he was the rebels' superior in Valunia Chiefdom. Transcript of 26 November 2004, TF2-088, pp. 24-25.

<sup>1006</sup> Transcript of 26 November 2004, TF2-088, pp. 24-26.

<sup>1007</sup> Transcript of 26 November 2004, TF2-088, pp. 27-28.

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so,<sup>1008</sup> Joseph Kulagbanda, Sundifu Samuka and John Rainbo placed him flat on the ground. He was stripped naked while his hands were tied behind his back with FM rope brought by Gibril Mansaray. A mixture of charcoal powder with clay, ash and water brought by James Bundu was put all over the TF2-088's body and pepper was rubbed into his genitals.<sup>1009</sup>

521. James Bundu stepped on TF2-088's stomach and took 41,000 leones that TF2-088 had in his shirt.<sup>1010</sup> James Bundu accused TF2-088 of being a thief and then each of his 13 commanders lashed TF2-088 10 times. TF2-088 was released when his wife's sister paid 5000 leones, which the Kamajors had requested for his release.<sup>1011</sup>

#### 2.5.7.2. Crimes Occurring in Kpetewoma in Valunia Chiefdom in April 1999

##### 2.5.7.2.1. Killing of TF2-088's Son

522. Late in the evening of 22 April 1999, while TF2-088 was with his son in Kpetewoma village, he heard and saw his son screaming while being held by Kamajors.<sup>1012</sup> There was a gunshot, then a Kamajor named Borbor Aruna cut TF2-088's son's throat with a machete. His son was bleeding from the throat and gasping. There was a celebration in Gumahun after the Kamajors killed his son.<sup>1013</sup> TF2-088 went to the swamp where he saw his son's body. The Kamajors had cut his son open from the throat to the penis and had removed his internal organs, including the heart, lungs and intestines.<sup>1014</sup> The body of his son was burnt in the presence of many commanders including Gibril Mansaray, James Bundu, David Joseph, Sundifu Samuka and Chief Mulai Abu of Nyandehun.<sup>1015</sup>

523. On 24 April 1999, TF2-088 was shown a written notice by Gibril Mansaray. The notice was addressed to checkpoint commanders in the Gumahun area. It contained an order for the killing of TF2-088's son.

<sup>1008</sup> Transcript of 26 November 2004, TF2-088, pp. 32-33.

<sup>1009</sup> Transcript of 26 November 2004, TF2-088, pp. 33-35.

<sup>1010</sup> Transcript of 26 November 2004, TF2-088, pp. 35-36.

<sup>1011</sup> Transcript of 26 November 2004, TF2-088, pp. 35-36.

<sup>1012</sup> Transcript of 26 November 2004, TF2-088, pp. 38-40.

<sup>1013</sup> Transcript of 26 November 2004, TF2-088, pp. 41-43.

<sup>1014</sup> Transcript of 26 November 2004, TF2-088, pp. 44-46; TF2-088 did not do anything to the body because there was a law that if the Kamajors had killed somebody, no civilian had the right to move the body. Transcript of 26 November 2004, TF2-088, p. 46.

<sup>1015</sup> Transcript of 26 November 2004, TF2-088, pp. 47.

524. TF2-088 later learned that the ash from his son's corpse was used to perform the last initiation in Mongere Town in Norman's compound.<sup>1016</sup> After this initiation the Kamajors went to TF2-088's home and beat his children and several Limba people staying at his house. The Kamajors demanded food and took all of TF2-088's property, 250,000 leones of his money and burnt down one of his houses.<sup>1017</sup>

### 2.5.7.3. Reporting of Crimes

#### 2.5.7.3.1. *Report to Hassan Sheriff*

525. On 24 April 1999, TF2-088 reported all the crimes that he knew of the Kamajors committing to Alhaji Hassan Sheriff.<sup>1018</sup> Sheriff told TF2-088 that Sam Hinga Norman had ordered a ceasefire which meant that Kamajors were not supposed to kill anyone.<sup>1019</sup> As the war was over, the Kamajors were told to stop harassing civilians.<sup>1020</sup>

526. On 27 April 1999, two days after Earnest Blango Kandapa completed investigating crimes that had allegedly been committed by Kamajors, TF2-088 was invited to Gumahun court *barri*. Also present were James Bundu, Gibril Mansaray, Sundifu Samuka, Joseph Kulagbanda and Chief Mulai Abu. After listening to TF2-088's complaint, Kandapa asked whether this had in fact occurred. The Kamajor Commanders admitted to the crimes, however James Bundu commented that a "Kamajor never does wrong." These people were not punished.<sup>1021</sup>

527. TF2-088 estimated his financial loss as equivalent to two million leones, however he received only 20,000 leones and five gallons of oil. The Kamajors were instructed to give him 500,000 leones every two weeks, but they did not do so.<sup>1022</sup>

#### 2.5.7.3.2. *Report to Norman*

528. On 5 October 2001, TF2-088 travelled to Freetown. He made a written report about the killings he witnessed in Mongere and Gumahun to Norman and delivered it to Norman's wife at

<sup>1016</sup> Transcript of 26 November 2004, TF2-088, pp. 48-49.

<sup>1017</sup> Transcript of 26 November 2004, TF2-088, pp. 50-51.

<sup>1018</sup> Transcript of 26 November 2004, TF2-088, p. 52.

<sup>1019</sup> Transcript of 26 November 2004, TF2-088, pp. 52-54.

<sup>1020</sup> Transcript of 26 November 2004, TF2-088, pp. 77-78.

<sup>1021</sup> Transcript of 26 November 2004, TF2-088, pp. 62-66.

<sup>1022</sup> Transcript of 26 November 2004, TF2-088, pp. 67-68.

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their Spur Road compound.<sup>1023</sup> Two days later, when TF2-088 returned to Norman's house, Norman's wife told TF2-088 that Norman had done nothing. TF2-088 returned to his village.<sup>1024</sup>

2.5.7.3.3. *Meeting with Norman in Mongere*

529. In December 2001, Norman addressed Kamajors and civilians from his compound in Mongere. Norman said that he had come to warn the Kamajors that "when the war is over, anybody who had done something bad to his companion would regret it if the companion comes and overtakes him. Those days that you did those things, there were no places to report you, but [sic] now, the law is here." Norman cited TF2-088's complaint as an example. TF2-088 does not know of any instance where Kamajors were punished for what they did to him.<sup>1025</sup>

2.5.8. Fengehun, Kakua Chiefdom

530. Fengehun is a village located in Kakua Chiefdom in Bo District.<sup>1026</sup> It has a population of approximately 400 people.<sup>1027</sup> Soldiers, rebels and Kamajors all lived in Fengehun, but there was no fighting.<sup>1028</sup>

2.5.8.1. Crimes Committed in Fengehun

531. During the dry season of 1998, five Kamajors arrested TF2-007 and took him to the location where they held his father captive. TF2-007 saw his father tied with a rope around his waist. Part of his father's right ear had been cut off. TF2-007's father was surrounded by approximately ten Kamajors who were dancing.<sup>1029</sup>

532. TF2-007 was told by the Kamajors to say good-bye to his father. TF2-007's father was then tied and put inside a hut which was set on fire. After the burning, Kamajors decapitated TF2-007's father's corpse. Later in the day, TF2-007 saw the Kamajors dancing and holding a stick onto which they had attached his father's head. The Kamajors requested a token from TF2-007 in

<sup>1023</sup> Transcript of 26 November 2004, TF2-088, pp. 69-70; TF2-088 explained in the letter that Kamajors had killed many members of his family and that though he had wanted to make a report earlier he had been unable to do so. In 1997 and 1998 the police stations were banned, the courts were closed and there were no chairmen or chiefs passing decisions: see Transcript of 26 November 2004, TF2-088, pp. 69-70.

<sup>1024</sup> Transcript of 26 November 2004, TF2-088, pp. 69-70.

<sup>1025</sup> Transcript of 26 November 2004, TF2-088, pp. 75-76.

<sup>1026</sup> See Exhibit 37.

<sup>1027</sup> Transcript of 2 December 2004, TF2-007, pp. 43 and 75-76.

<sup>1028</sup> Transcript of 2 December 2004, TF2-007, pp. 45-48.

<sup>1029</sup> Transcript of 2 December 2004, TF2-007, pp. 50-53.

exchange for bringing his father's head but TF2-007 had nothing had to give them and they passed by.<sup>1030</sup> He did not see his father's body again.<sup>1031</sup>

#### 2.5.9. Killing of Jeneba and Juma Joe Betty by Vanjawai in Jiama Bongor Chiefdom, Bo District

533. Vandi Vanjawai was posted to a town called Gondama. He had authority in Soa Chiefdom, Jiama Bongor Chiefdom and Tikonko Chiefdom. Albert J Nallo made a report at Base Zero about two killings involving Vanjawai: the first was the killing of a pregnant woman named as Jeneba in Gbonima village and the second was having had his boys kill a man named Juma Joe Betty in Sulehun village. Albert J Nallo took Juma Joe Betty's elder brother Musa Joe Betty to Base Zero to report his brother's killing.<sup>1032</sup>

### 2.6. Bonthe District

#### 2.6.1. Background to Bonthe Town

534. In 1991, a unit of the Sierra Leone Navy was installed in Bonthe Town because rebels were threatening to invade. The unit had three gun boats.<sup>1033</sup> The Kamajors came to Bonthe for the first time during 1994 and 1995. At this time, the relationship between the Kamajors, the military and the civilians was cordial.<sup>1034</sup>

535. The Kamajors were based in villages near Bonthe Town. They were also installed on the mainland portion of Bonthe District.<sup>1035</sup> Immediately after the overthrow of Kabbah's government, the Kamajors living in Bonthe Town had to retreat to the surrounding villages.<sup>1036</sup> By this time the relationship between the civilians and the SLA had deteriorated; the SLA sometimes mistreated people and beat the civilians.<sup>1037</sup>

<sup>1030</sup> Transcript of 2 December 2004, TF2-007, pp. 57-59.

<sup>1031</sup> Transcript of 2 December 2004, TF2-007, pp. 71-72.

<sup>1032</sup> Transcript of 11 March 2005, Albert J Nallo, pp. 17-18.

<sup>1033</sup> Transcript of 12 November 2004, TF2-071, pp.5-6.

<sup>1034</sup> Transcript of 12 November 2004, TF2-071, pp. 6-7.

<sup>1035</sup> Transcript of 10 November 2004, Father Garrick, pp. 5-6.

<sup>1036</sup> Transcript of 11 November 2004, TF2-071, p. 49.

<sup>1037</sup> Transcript of 11 November 2004, TF2-071, pp. 49-50; Transcript of 12 November, TF2-071, pp. 17-18.

536. The Kamajors operating in Bonthe were of the Shebro tribe and were referred to as the Kassilla Battalion. These Kamajors were seamen and were called "sea devils".<sup>1038</sup>

537. Several meetings were held with the elders of Bonthe town in order to discuss the issue of the continuing harassment of civilians by Kamajors.<sup>1039</sup> On 16 August 1997, a delegation was sent to Kondewa at the Kamajor base at Tihun to discuss the matter.<sup>1040</sup>

538. On 15 September 1997, Kamajors entered Bonthe with the aim of seizing a military gunboat. However, the attack did not succeed and the Kamajors were repelled.<sup>1041</sup>

#### 2.6.2. Attack on Bonthe Town by Kamajors on 15 February 1998

539. On 14 February 1998, soldiers left Bonthe in a Sierra Leone Navy gunboat.<sup>1042</sup> The following morning, a group of approximately 300 to 500 Kamajors entered Bonthe.<sup>1043</sup> The Kamajors came from three chiefdoms, including Sittia and Nongoba Bullom.<sup>1044</sup> Some of the Kamajors were armed with guns and were dressed in the Kamajor uniform with charms and mirrors attached.<sup>1045</sup> The Kamajors fired their guns and sang poro songs and advanced towards Bonthe Town.<sup>1046</sup> They gathered all the civilians in Bonthe at the Sierra Leone Navy Base.<sup>1047</sup>

#### 2.6.3. Crimes committed by Kamajors after arrival

##### 2.6.3.1. 15 February 1998

##### 2.6.3.1.1. *Looting*

540. On 15 February 1998, Kamajor commander Lamina Gbokambama and his men looted household items and equipment from the Bonthe Technical College, the Bonthe Holiday Complex, the government building, the Police station, the state prison, the district office, the

<sup>1038</sup> Transcript of 30 January 2006, Norman, p. 11.

<sup>1039</sup> Transcript of 10 November 2004, Father Garrick, pp. 6-7.

<sup>1040</sup> Transcript of 10 November 2004, Father Garrick, pp. 10-12; Transcript of 11 November 2004, TF2-071, pp. 50-51; see also section V.2.2.2.5.

<sup>1041</sup> Transcript of 9 November 2004, TF2-116, p. 6; Transcript of 10 November 2004, Father Garrick, p. 33.

<sup>1042</sup> Transcript of 9 November 2004, TF2-116, pp. 7-8.

<sup>1043</sup> Transcript of 11 November 2004, TF2-071, pp. 76-77; Transcript of 9 November 2004, TF2-116, pp. 8-9; Transcript of 10 November 2004, Father Garrick, p. 33.

<sup>1044</sup> Transcript of 11 November 2004, TF2-071, p. 76; Transcript of 11 November 2004, Father Garrick, p. 14.

<sup>1045</sup> Transcript of 9 November 2004, TF2-116, p.8.

<sup>1046</sup> Transcript of 9 November 2004, TF2-116, p. 9.

<sup>1047</sup> Transcript of 11 November 2004, TF2-071, p. 77.

elections office, the Ministry of Works and the Fisheries Department, the Post Office and the telecommunications department.<sup>1048</sup> After they finished looting, Lamin Gbokambama announced that he was now the Chief of Bonthe.<sup>1049</sup> At the Fisheries Department Building, Father Garrick pleaded with a young Kamajor called Commander Rambo Conteh to have his Kamajors leave things intact. Rambo answered that they only wanted to take the fuel and then they would leave.<sup>1050</sup>

#### 2.6.3.1.2. *Killing of Kpana Manso*

541. On the same day a Sherbro fisherman, Kpana Manso, was shot by Beigeh, the Kamajor Commander of the invading force.<sup>1051</sup> Kpana Manso was killed because he was wrongfully blamed for being the father of the soldiers.<sup>1052</sup> Baigeh said he was the Battalion Commander of the Kamajor naval battalion, also referred to as the Kassilla Battalion. He said, "From now on Bonthe is under the control of the Kamajors, headed by [...] Commander Morie Jusu Kamara."<sup>1053</sup>

542. After the attack on Bonthe, Kamajor leaders including Nabie Koroma and Chief Sei Mani, Section Chief in Sittia Chiefdom, arrived in Bonthe from Bendu Cha. Father Garrick made a report to them about lootings and killings by Kamajors in Bonthe. Nabie Koroma and Chief Sei Mani said that they would wait until the arrival of Battalion Commander Mori Jusu Kamara before taking any action.<sup>1054</sup>

#### 2.6.3.2. 16 February 1998

##### 2.6.3.2.1. *Looting in Bonthe*

543. On 16 February 1998, a house in Bonthe was looted and vandalized by Commander Julius Squire of Bendu Cha and his troops. These Kamajors took 17,900,000 leones from TF2-116's

<sup>1048</sup> Transcript of 10 November 2004, Father Garrick, pp. 35 and 50-51.

<sup>1049</sup> Transcript of 10 November 2004, Father Garrick, p. 51.

<sup>1050</sup> Transcript of 11 November 2004, TF2-071, p. 77; Transcript of 10 November 2004, Father Garrick, p. 51.

<sup>1051</sup> Transcript of 11 November 2004, TF2-071, p. 77; Transcript of 10 November 2004, Father Garrick, pp.36-37; Transcript of 9 November 2004, TF2-116, p. 13.

<sup>1052</sup> Transcript of 9 November 2004, TF2-116, p. 14.

<sup>1053</sup> Transcript of 10 November 2004, Father Garrick, pp. 37-38.

<sup>1054</sup> Transcript of 10 November 2004, Father Garrick, pp. 47-48.

house.<sup>1055</sup> Commander Julius Squire directed his men to transport the looted items to his house a few yards away on Nathan Street.<sup>1056</sup>

544. On the same day the Kamajors looted materials and drugs from the government hospital and household materials from the doctors' quarters.<sup>1057</sup>

#### 2.6.3.2.2. Killings in Bonthé

545. On 16 February 1998, a young man named Abu Samukah Mampoh was shot by Kamajors.<sup>1058</sup> His corpse was left at the junction of Medina Street and Lime Street.<sup>1059</sup> It had been mutilated by the amputation of his arms.<sup>1060</sup>

546. On the same day, a fisherman named Kondor Bantiamor was killed by Kamajors on the shore.<sup>1061</sup>

547. On 16 February 1998 Kamajors announced a meeting at the St. Patrick Parish's Compound.<sup>1062</sup> Morie Jusu, the District Battalion Commander, was present at the meeting. Commander Julius Squire, the secretary and spokesman for the meeting, announced that the Kamajors were looking for three collaborators.<sup>1063</sup>

548. At the same meeting, TF2-116 was singled out and placed in the circle by the Kamajors. The Kamajors told TF2-116 that he should be killed.<sup>1064</sup> Commander Julius Squire blamed TF2-116 for being a member of a working Committee which had cooperated with the junta forces.<sup>1065</sup> Julius Squire said that TF2-116 should be killed for this cooperation. District Commander Mori Jusu intervened and said he saw no truth in the allegation and that the killing should be stopped. Kamajor Commander Rambo Conteh insisted that if the District Commander stopped him from

<sup>1055</sup> Transcript of 9 November 2004, TF2-116, pp. 26-28.

<sup>1056</sup> Transcript of 9 November 2004, TF2-116, pp. 26-27.

<sup>1057</sup> Transcript of 10 November 2004, Father Garrick, pp. 41-43.

<sup>1058</sup> Transcript of 9 November 2004, TF2-116, p.18; Transcript of 10 November 2004, Father Garrick, pp. 40-41.

<sup>1059</sup> Transcript of 9 November 2004, TF2-116, p.18; Transcript of 10 November 2004, Father Garrick, pp. 40-41.

<sup>1060</sup> Transcript of 9 November 2004, TF2-116, p.18.

<sup>1061</sup> Transcript of 10 November 2004, Father Garrick, p. 43.

<sup>1062</sup> Transcript of 9 November 2004, TF2-116, pp. 14-15.

<sup>1063</sup> Transcript of 9 November 2004, TF2-116, pp. 16-17.

<sup>1064</sup> Transcript of 9 November 2004, TF2-116, pp.18-20 and 44-47.

<sup>1065</sup> Transcript of 9 November 2004, TF2-116, p. 20.

killing TF2-116, he would surely kill someone else so that it would go on record that he spilled human blood on the soil of Bonthe.<sup>1066</sup>

549. At the same meeting a boy named Bendeh Battiamma was accused of being a collaborator. The boy was trapped by Alfred Bobby and dragged to Heddy Road and shot. Rambo Conteh came back to the meeting and said that he was not satisfied, but at least he had spilled human blood on the soil of Bonthe. Rambo Conteh killed the boy.<sup>1067</sup>

550. District Commander Mori Jusu said that no one else would be killed, but that the civilians had to pay 100,000 leones for each of the 14 people that were at the meeting. Father Garrick paid a sum of money and guaranteed that the rest would also be paid.<sup>1068</sup>

#### 2.6.3.3. Killing of Abu Conteh on 17 February 1998

551. On 17 February 1998, a tailor named Abu Conteh was shot at the St. Joseph's Secondary School by Kamajors from Sittia Chiefdom.<sup>1069</sup> He was killed because he was suspected to have prepared talismans and magical concoctions to protect the Soldiers.<sup>1070</sup> The District Commander Mori Jusu was informed that one of his Kamajors had killed Abu Conteh.<sup>1071</sup> Although Mori Jusu was a disciplinarian "in his own right", he did not punish his Kamajors.<sup>1072</sup>

#### 2.6.3.4. Case of Lahai Koroma/Actions by Kondewa

552. On 15 February, Kamajors looked for Lahai Ndokoi Koroma, a Chiefdom Speaker, in the Catholic mission,<sup>1073</sup> who was accused of being a junta collaborator.<sup>1074</sup> They threatened to kill everyone if Lahai Ndokoi Koroma was not produced.<sup>1075</sup> He was captured by Kamajors, stripped naked and tied.<sup>1076</sup> Three delegations came from Base Zero, Talia, to investigate the matter. The first delegation was led by Imam Fuad; the second was led by Commander Vanjawai acting under

<sup>1066</sup> Transcript of 9 November 2004, TF2-116, p. 21.

<sup>1067</sup> Transcript of 9 November 2004, TF2-116, pp. 21-22.

<sup>1068</sup> Transcript of 9 November 2004, TF2-116, p. 23.

<sup>1069</sup> Transcript of 10 November 2004, Father Garrick, p.46; Transcript of 9 November 2004, TF2-116, pp. 24-25.

<sup>1070</sup> Transcript of 10 November 2004, Father Garrick, pp.46-47.

<sup>1071</sup> Transcript of 10 November 2004, Father Garrick, p. 47.

<sup>1072</sup> Transcript of 9 November 2004, TF2-116, p. 46.

<sup>1073</sup> Transcript of 10 November 2004, Father Garrick, pp. 58-59; Transcript of 11 November 2004, TF2-071, p. 78; Transcript of 11 November 2004, Father Garrick, pp. 22-24.

<sup>1074</sup> Transcript of 11 November 2004, Father Garrick, pp. 20-22.

<sup>1075</sup> Transcript of 11 November 2004, TF2-071, p. 78.

<sup>1076</sup> Transcript of 11 November 2004, TF2-071, p. 80.

instructions of Kondewa.<sup>1077</sup> The first delegation told the people of Bonthe that their fate depended on Kondewa and asked to be paid 400,000 leones.<sup>1078</sup> Both delegations asked Father Garrick to pay for those who had a relationship with soldiers; they threatened that if he did not pay they would kill those people.<sup>1079</sup>

553. On 1 March 1998,<sup>1080</sup> a third group of Kamajors came to Bonthe under the leadership of Kondewa. At a public meeting Kondewa said that he had not allowed his men to enter Bonthe, but that they had not listened to his advice and had done what they had done. Kondewa apologized on their behalf. Kondewa also told those assembled that they should forget about ECOMOG, as they were not responsible for Bonthe. Kondewa said that it was the Kamajors who were responsible for security in the area.<sup>1081</sup> He told Father Garrick that he was aware of the atrocities committed by the Kamajors and for this reason he wanted to get Lahai Ndokoi Koroma out of the country.<sup>1082</sup> Father Garrick paid 600,000 leones to Kondewa for the upkeep and security of Lahai Ndokoi Koroma.<sup>1083</sup> Kondewa left alone with Lahai Ndokoi Koroma and went to Talia; later he went to Bo.<sup>1084</sup> Only Kondewa had authority to release Lahai Koroma and claimed to kill without restraint and to send people to Mecca.<sup>1085</sup>

#### 2.6.4. Norman's Visit to Bonthe on 23 February 1998

554. Around 23 February 1998,<sup>1086</sup> Norman came by helicopter to Bonthe. He was accompanied by two ECOMOG officials. There was a celebration in Bonthe Town because the Kamajors had terrorized the civilians; it was expected that Norman had come to find a solution. At a public meeting at the Bonthe town hall Norman said, "Any complaint against the Kamajors is useless as [sic] they had fought and saved the nation. Working with the Kamajors was like working with the

<sup>1077</sup> Transcript of 11 November 2004, TF2-071, pp.81-82; Transcript of 10 November 2004, Father Garrick, p. 56.

<sup>1078</sup> Transcript of 11 November 2004, TF2-071, pp. 92-93.

<sup>1079</sup> Transcript of 10 November 2004, Father Garrick, pp. 54-56.

<sup>1080</sup> The meeting took place 14 days after the attack on 15 February 1998; Transcript of 9 November 2004, TF2-116, p. 57.

<sup>1081</sup> Transcript of 9 November 2004, TF2-116, pp. 30-31.

<sup>1082</sup> Transcript of 10 November 2004, Father Garrick, pp.58-59.

<sup>1083</sup> Transcript of 11 November 2004, TF2-071, pp. 92-93; Transcript of 12 November 2004, TF2-071, pp. 45-47 (CS); Transcript of 10 November 2004, Father Garrick, p. 60.

<sup>1084</sup> Transcript of 10 November 2004, Father Garrick, p. 62; Transcript of 12 November 2004, TF2-071, p. 37 (CS).

<sup>1085</sup> Transcript of 12 November 2004, TF2-071, pp. 46-47(CS).

<sup>1086</sup> Norman came eight days after the attack on Bonthe on 15 February 1998: Transcript of 11 November 2004, TF2-071, p.100.

cutlass [...] It cuts you, you drop it, and you pick it up again.” The people of Bonthe were disappointed by these words.<sup>1087</sup>

#### 2.6.5. Trip to Freetown in 1998 (March 1998)

555. In March 1998, a delegation left Bonthe for Freetown to see President Ahmad Tejan Kabbah and Solomon Berewa, the Attorney-General. The purpose of the trip was to complain about looting and killing by the Kamajors.<sup>1088</sup> Berewa wrote a letter<sup>1089</sup> addressed to the Kamajors in Bonthe.<sup>1090</sup> An ECOMOG officer told the delegation that Norman said that “his boys in Bonthe were under control”.<sup>1091</sup>

556. In Bonthe the letter from Solomon Berewa was given to Commander Morie Jusu Kamara who passed it on to his second in command, Julius Squire. Julius Squire said that he did not recognise the authority of the Attorney-General; he refused to accept the instructions in the letter, unless they came from Norman or Kondewa.<sup>1092</sup>

557. When Father Garrick returned to Bonthe from Freetown in March 1998, Battalion Commander Morie Jusu Kamara told Father Garrick that he would stop the Kamajors from mistreating Chief George Brandon, one of the people hidden at Father Garrick’s mission. However, he was not able to control the Kamajors.<sup>1093</sup>

#### 2.6.6. Crimes Committed Elsewhere in Bonthe District

##### 2.6.6.1. Mosandi, Molakaika, Bembay, Bolloh around 15 September 1997

558. One morning around 15 September 1997,<sup>1094</sup> 34 civilians went to the villages near Bonthe Town to collect food. They were captured by Kamajors and taken to Mosandi. Three of them were killed: Bockarie Kpaka, Junisa and Pa Samuel Kamara. The civilians of Bonthe then took cutlasses and spears and went to Mosandi to liberate the captured civilians. The civilians were supported by

<sup>1087</sup> Transcript of 11 November 2004, TF2-071, p. 94; Transcript of 9 November 2004, TF2-116, pp. 31-32.

<sup>1088</sup> Transcript of 11 November 2004, TF2-071, pp. 84-85; Transcript of 10 November 2004, Father Garrick, p. 64.

<sup>1089</sup> TF2-071 identified Exhibit 24 as this letter.

<sup>1090</sup> Transcript of 11 November 2004, TF2-071, pp. 84-85; Transcript of 10 November 2004, Father Garrick, pp. 64-65.

<sup>1091</sup> TF2-071, 11/11/04, pp. 87-88.

<sup>1092</sup> Transcript of 11 November 2004, TF2-071, p. 90.

<sup>1093</sup> Transcript of 10 November 2004, Father Garrick, pp. 65-66.

<sup>1094</sup> The Trial Chamber finds that TF2-071 narrated this incident and the following ones described in this section as happening around or after 15 September 1997, as these were the acts committed by Kamajors around this time: Transcript of 11 November 2004, TF2-071, p. 56.

the soldiers, who were in effective control of Bonthe at that time.<sup>1095</sup> They freed the remaining civilians and brought them to Bonthe Town.<sup>1096</sup>

559. Sometime after these killings at Mosandi, Mohamed Kamara, Brima, Chokoh, Konglebbie and his wife were captured by Kamajors at Molakaika. Three of them escaped but Mohammed Kamara was killed by the Kamajors.<sup>1097</sup> His corpse was found under a tree next to the bridge going towards Molakaika; his back had been split open.<sup>1098</sup>

560. On the same day, Kamajors burnt 27 houses in Bembay, a village of about 30 houses. Six of the houses belonged to Lahai Koroma. Sei Mani, who sent the Kamajors, came and apologized to TF2-071 for burning houses. The Kamajors then left for Mobayeh Village.<sup>1099</sup>

561. The civilians of Mobayeh fled into the bush after the Kamajors left, except for an old woman, named Musu Fai and a pregnant woman, named Jebbeh Kpaka. The Kamajors killed Musu Fai. They ordered Jebbeh Kpaka to accompany them with the looted properties. They then asked her to go back but before she left, the Kamajors stabbed her to death. Jebbeh Kpaka fell on her back.<sup>1100</sup>

562. Around the same time Kong Sam and Ndogbei, a blind man, were killed in Bolloh village by Kamajor Commander Adu Kai Ne Challey of Masanda Village. Kong Sam was cut and his belly was slit open.<sup>1101</sup>

#### 2.6.6.2. Crimes in Motumbo around March 1998

563. Around the beginning of March 1998, TF2-086 went with her business partner, Jitta, to Seborgie. On their way back to Bonthe many Kamajors, armed with machetes and guns, came out of the bush. TF2-086 was caught by five Kamajors, including Borbor from Motombo, Abu from Gondoma, Jitta from Mosebay and Baigeh from Mu. Abu Jakineh wounded TF2-086 with a cutlass on her head and wrist. Baigeh stabbed TF2-086's belly and cut her neck.<sup>1102</sup> Borbor said: "Look

<sup>1095</sup> Transcript of 11 November 2004, TF2-071, pp. 58-59 and 109.

<sup>1096</sup> Transcript of 11 November 2004, TF2-071, pp. 58-59.

<sup>1097</sup> Transcript of 11 November 2004, TF2-071, pp. 59-61.

<sup>1098</sup> Transcript of 11 November 2004, TF2-071, pp. 64-65.

<sup>1099</sup> Transcript of 11 November 2004, TF2-071, pp. 67-68.

<sup>1100</sup> Transcript of 11 November 2004, TF2-071, pp. 70-71.

<sup>1101</sup> Transcript of 11 November 2004, TF2-071, pp. 73-75.

<sup>1102</sup> Transcript of 8 November 2004, TF2-086, pp. 104-105, 111; Transcript of 11 November 2004, TF2-071, pp. 75-76.

how dead you are. Look how filthy. You are rebels. [...] They [sic] are very dirty, filthy people." TF2-086 responded that she was not a rebel. Baigeh Mu pierced TF2-086's stomach with a stick. The Kamajors then asked TF2-086 to bring money; they took 140,000 leones from Jitta and TF2-086.<sup>1103</sup> After taking the money the Kamajors took Jitta to the bush and killed her. Afterwards Baigeh cut TF2-086 again on her neck with the machete and stabbed her in the stomach. TF2-086 nearly died.<sup>1104</sup>

### 2.6.6.3. Killings at Gambia Village, Jong Chiefdom

#### 2.6.6.3.1. *Killing of Witness TF2-187's Uncle*

564. TF2-187's uncle reported to Kondewa that his initiates from Vaahun had uprooted his cassava. In response Kondewa sent his boys to arrest TF2-187's uncle. TF2-187's uncle was taken to the initiation bush and tied up. Melted plastic was dropped into his eyes until he died.<sup>1105</sup> Kondewa's deputy Sheku Kaillie, a.k.a. Bombowai, was present during the killing of TF2-187's uncle. No one gave instructions during the incident.<sup>1106</sup>

#### 2.6.6.3.2. *Killing of three pregnant women*

565. At the court *barri* in Gambia Village, as the Kamajors heard the sound of Norman's plane approaching, they split open the stomachs of three pregnant women and removed the fetuses, one after the other. The Kamajors decapitated the fetuses and put each of the skulls on a long stick. These were mounted "like a flag" at the junction which goes to Mattru.<sup>1107</sup> All three women died. Many civilians were present during this incident. Commander Sheku Kaillie was also present, but Norman had not yet arrived.<sup>1108</sup> After Norman arrived he went to see Kondewa at the society bush. The fetuses' heads had been put there for Norman to see. Later, the Kamajors removed the heads from the stick and smeared blood on their own faces. The Kamajors sang and celebrated as they went into town.<sup>1109</sup>

<sup>1103</sup> Transcript of 8 November 2004, TF2-086, pp. 94-97.

<sup>1104</sup> Transcript of 8 November 2004, TF2-086, pp. 98-100; Transcript of 11 November 2004, TF2-071, pp. 75-76.

<sup>1105</sup> Transcript of 1 June 2005, TF2-187, pp. 13-14. The Chamber finds that TF2-187 was inconsistent and uncertain with respect to the timing of these incidents.

<sup>1106</sup> Transcript of 1 June 2005, TF2-187, p. 15.

<sup>1107</sup> Transcript of 1 June 2005, TF2-187, pp. 16-20.

<sup>1108</sup> Transcript of 1 June 2005, TF2-187, pp. 29-31.

<sup>1109</sup> Transcript of 1 June 2005, TF2-187, pp. 32-34.

## 2.7. Kenema District

### 2.7.1. Background to Kenema

566. Kenema Town is the Headquarters Town for Kenema District.<sup>1110</sup> Prior to February 1998 the AFRC was in control of Kenema. They worked with the rebels.<sup>1111</sup>

567. SS Camp is in a village known as Tilorma in Nongowa Chiefdom, Kenema District.<sup>1112</sup> SS Camp is about five miles from Kenema on the Dama Road and is on the side of the Moa River closer to Kenema.<sup>1113</sup> The location of SS Camp is very strategic: it is on the main highway between Kenema and Liberia.<sup>1114</sup>

568. Prior to the Coup, Kamajors and soldiers worked together at SS Camp.<sup>1115</sup> SS Camp was a former water treatment facility.<sup>1116</sup> Although it was no longer used for this purpose, the buildings, including an office block and a deep pit, remained.<sup>1117</sup>

569. Blama is the Headquarters Town for Small-Bo Chiefdom in Kenema District.<sup>1118</sup> It is 12 miles east of Kenema on the Bo-Kenema Highway.<sup>1119</sup> After the Coup, the rebels took control of Blama.<sup>1120</sup> Under threat of death, the juntas forced the police to do the juntas' work.<sup>1121</sup>

570. Although the juntas left Blama on 11 February 1998, the Kamajors did not arrive until four days later. During this interval, no one was in control of Blama.<sup>1122</sup>

### 2.7.2. The Capture of SS Camp

<sup>1110</sup> Exhibit 119B.

<sup>1111</sup> Transcript of 22 September 2004, TF2-151, pp. 7-8.

<sup>1112</sup> Transcript of 28 September 2004, TF2-201, p. 59 (CS); Transcript of 28 September 2004, TF2-223, p. 106(CS); Transcript of 24 May 2006, Lahai Koroma, p. 40; The name "SS Camp" stands for "Special Security Camp": Transcript of 28 September 2004, TF2-223, p. 59 (CS).

<sup>1113</sup> Transcript of 25 May 2006, Mohamed Swaray, p. 112; Transcript of 24 May 2006, Lahai Koroma, pp. 36-37; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 71; Transcript of 28 September 2004, TF2-223, p. 57(CS); Transcript of 04 May 2006, Arthur Koroma, p. 115.

<sup>1114</sup> Transcript of 28 September 2004, TF2-223, p. 59 (CS).

<sup>1115</sup> Transcript of 24 May 2006, Lahai Koroma, pp. 40-41.

<sup>1116</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 57; Transcript of 24 May 2006, Lahai Koroma, p. 40.

<sup>1117</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 58; Transcript of 4 May 2006, p. 115.

<sup>1118</sup> Exhibit 119B.

<sup>1119</sup> Transcript of 27 September 2004, TF2-154, p. 47; Transcript of 30 September 2004, TF2-223, p. 41(CS).

<sup>1120</sup> Transcript of 24 September 2004, TF2-041, pp. 14-36.

<sup>1121</sup> Transcript of 24 September 2004, TF2-041, pp. 15-16.

<sup>1122</sup> Transcript of 24 September 2004, TF2-041, p. 13.

571. Mohamed Bhonie Koroma, a Battalion Commander, led the attack on SS Camp.<sup>1123</sup> Other Kamajors that participated in this attack included Mohamed Sara,<sup>1124</sup> Fallah Bindi,<sup>1125</sup> CO Sahr,<sup>1126</sup> and Stephen Lahai Fassay.<sup>1127</sup>

572. Kamajors attacked from the direction of Gofor and took SS Camp easily. Although there was some exchange of fire at the Moa River Bridge, the soldiers fled SS Camp when the Kamajors approached.<sup>1128</sup>

573. SS Camp was taken approximately one week before Kenema.<sup>1129</sup> When the Kamajors took over SS Camp, they found guns, ammunition and food.<sup>1130</sup> During the week after the Kamajors captured SS Camp, soldiers and rebels attacked it repeatedly but were unsuccessful in regaining control of the camp.<sup>1131</sup>

#### 2.7.2.1. Administration of SS Camp

574. Mohamed Bhonie Koroma left SS Camp to attack Kenema on 15 February 1998.<sup>1132</sup> When he left, Stephen Lahai Fassay replaced him as the Kamajor boss.<sup>1133</sup> Fassay maintained this position at least until May 1998.<sup>1134</sup>

575. ECOMOG arrived at SS Camp on approximately 15 February 1998.<sup>1135</sup> ECOMOG stayed at SS Camp from the time they arrived until disarmament.<sup>1136</sup>

<sup>1123</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 13; Transcript of 23 May 2006, Fallah Bindi, p. 63, and 71; Transcript of 25 May 2006, Mohamed Swaray, p. 103; Transcript of 26 May 2006, Mohamed Swaray, p. 26.

<sup>1124</sup> Transcript of 26 May 2006, Mohamed Swaray, p. 10 and 22-27; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 14.

<sup>1125</sup> Transcript of 23 May 2006, Fallah Bindin, pp. 62-63; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 14.

<sup>1126</sup> Transcript of 26 May 2006, Mohamed Swaray, p. 44; Transcript of 25 May 2006, Lahai Koroma, p. 11.

<sup>1127</sup> Transcript of 4 May 2006, Arthur Koroma, pp. 54-55; Transcript of 26 May 2006, Mohamed Swaray, p. 14. and.47-48.

<sup>1128</sup> Transcript of 23 May 2006, Fallah Bindi, pp. 62-63.

<sup>1129</sup> Transcript of 23 May 2006, Fallah Bindi, p. 63 (Testified that they went to Kenema on 15 February and that they had been at SS Camp for one week at that time.) See also Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 51 and p. 73; Transcript of 4 May 2006, Arthur Koroma, pp. 54-55; Transcript of 25 May 2006, Mohamed Swaray, p. 104.

<sup>1130</sup> Transcript of 23 May 2006, Fallah Bindi, p. 63; Transcript of 25 May 2006, Mohamed Swaray, p. 105; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 13; Transcript of 24 May 2006, Lahai Koroma, p. 49.

<sup>1131</sup> Transcript of 23 May 2006, Fallah Bindi, p. 63; Transcript of 24 May 2006, Lahai Koroma, p. 50; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 14 and p. 51; Transcript of 25 May 2006, Mohamed Swaray, p. 105.

<sup>1132</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 73.

<sup>1133</sup> Transcript of 26 May 2006, Mohamed Swaray, pp. 13-14 and 44-45; Transcript of 23 February 2006, Ishmael Koroma, p. 54.

<sup>1134</sup> Transcript of 04 May 2006, Arthur Koroma, pp. 54 and 105-109.





2.7.3. Crimes Committed in or around Blama on 15 and 16 February 1998

576. Kamajors entered Blama on Sunday, 15 February 1998.<sup>1137</sup> Key commanders in this attack included Alhaji Bockarie, Sau Vibbie and Foday Saidu.<sup>1138</sup>

2.7.3.1. Mistreatment of and Threats to Kill TF2-041; Killing of Sergeant Fosana

577. Kamajors fired into the air as they entered the police barracks in Blama. TF2-021 was frightened, so he went and hid in the bush outside the town.<sup>1139</sup> That evening, Kamajors searched the bush and found TF2-041. They brought him to a Kamajor CO at Koribondo Road who became angry and hit TF2-041 in the face with a stick, breaking one of his teeth.<sup>1140</sup>

578. Kamajors then took TF2-041 and Sergeant Fosana to Alhaji Medama, the Ground Commander in Blama.<sup>1141</sup> On the way there, the Kamajors beat TF2-041 and told him that Norman had instructed that police should be killed.<sup>1142</sup>

579. In Blama, the Ground Commander dismissed TF2-041 and Sergeant Fosana with a wave of his hand. TF2-041 and Sergeant Fosana were taken to the back of a house where Kamajors discussed how to kill them.<sup>1143</sup> Sergeant Fosana was killed.<sup>1144</sup> TF2-041 was cut with a knife; he lost consciousness and was left for dead.<sup>1145</sup>

580. After some time, TF2-041 woke up and returned to the bush to hide.<sup>1146</sup> Over the course of a week, he walked 12 miles to a village with a hospital.<sup>1147</sup> Some Kamajors in the village threatened to kill TF2-041 but the town Chief intervened on his behalf.<sup>1148</sup> TF2-041 was taken to Blama for

<sup>1135</sup> Transcript of 26 May 2006, Mohamed Swaray, pp. 45-50; Transcript of 24 May 2006, Lahai Koroma, p. 53; Transcript of 25 May 2006, Lahai Koroma, pp. 16-17; Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 51-52.

<sup>1136</sup> Transcript of 24 May 2006, Lahai Koroma, pp. 54.

<sup>1137</sup> Transcript of 24 September 2004, TF2-041, pp. 13-14, 18 and 73 (CS); Transcript of 04 May 2006, Arthur Koroma, p. 55.

<sup>1138</sup> Transcript of 04 May 2006, Arthur Koroma, p. 55.

<sup>1139</sup> Transcript of 24 September 2004, TF2-041, pp. 16 and 19.

<sup>1140</sup> Transcript of 24 September 2004, TF2-041, pp. 20, 22 and 41.

<sup>1141</sup> Transcript of 24 September 2004, TF2-041, pp. 22-23, 42 and 53 (CS).

<sup>1142</sup> Transcript of 24 September 2004, TF2-041, pp. 22-23, 42 and 73, (CS).

<sup>1143</sup> Transcript of 24 September 2004, TF2-041, pp. 23-24.

<sup>1144</sup> Transcript of 24 September 2004, TF2-041, pp. 33 and 53(CS).

<sup>1145</sup> Transcript of 24 September 2004, TF2-041, p. 30.

<sup>1146</sup> Transcript of 24 September 2004, TF2-041, pp. 30-31, 65 and 68 (CS).

<sup>1147</sup> Transcript of 24 September 2004, TF2-041, pp. 31 and 69.

<sup>1148</sup> Transcript of 24 September 2004, TF2-041, pp. 31 and 69 (CS).

*RS*

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treatment; on the way there, the Kamajors escorting him again threatened to kill him but TF2-041 begged for his life and was spared.<sup>1149</sup>

#### 2.7.3.2. Unlawful Killing of a Temne man

581. On Monday 16 February 1998, TF2-154 fled with her family from Kenema to Blama.<sup>1150</sup> Kamajors separated all those who arrived in Blama into straight lines according to their tribe.<sup>1151</sup> The Kamajors said that "Temnes are all relatives of Sankoh" and that "Sankoh [...] brought the war".<sup>1152</sup> A man tried to run from the Temne line but was caught and decapitated with a cutlass. His head was put on a stick and a cigarette was put in his mouth. The Kamajors sang and danced with this man's head.<sup>1153</sup>

#### 2.7.4. Arrival of Kamajors in Kenema on 15 February 1998

582. Kamajors took control of Kenema Town on Sunday, 15 February 1998.<sup>1154</sup> Mohamed Bhonie Koroma led the first battalion of Kamajors, which entered Kenema from the direction of SS Camp.<sup>1155</sup> Twenty to thirty units from different sections, comprising at least one thousand Kamajors, entered Kenema on the same day.<sup>1156</sup> The rebels were not in Kenema when the Kamajors arrived, so the Kamajors captured it easily, without firing shots.<sup>1157</sup> The Kamajors found ammunition, food, and guns at the Brigade in Kenema and they took these things.<sup>1158</sup>

583. Many police officers watched the Kamajors enter Kenema from a position near the police barracks on Hangha Road. The Kamajors entering Kenema wore cotton cloths with talismans

<sup>1149</sup> Transcript of 24 September 2004, TF2-041, pp. 32 and 70-71.

<sup>1150</sup> Transcript of 27 September 2004, TF2-154, pp. 47-48.

<sup>1151</sup> Transcript of 27 September 2004, TF2-154, p. 48.

<sup>1152</sup> Transcript of 27 September 2004, TF2-154, p. 49.

<sup>1153</sup> Transcript of 27 September 2004, TF2-154, pp. 49-50.

<sup>1154</sup> Transcript of 23 May 2006, Fallah Bindi, p. 64; Transcript of 17 September 2004, TF2-042, p. 96; Transcript of 23 September 2004, TF2-039, p. 95; Transcript of 20 September 2004, TF2-033, pp. 7-8; Transcript of 27 September 2004, TF2-154, p. 41; Transcript of 3 May 2006, Arthur Koroma, p. 33; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 18; Transcript of 23 May 2006, Brima Moriba, pp. 13-14.

<sup>1155</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 73.

<sup>1156</sup> Transcript of 30 September 2004, TF2-223, p. 60 (CS); Transcript of 17 September 2004, TF2-042, pp. 99-100; Transcript of 27 September 2004, TF2-154, p. 41.

<sup>1157</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 19.

<sup>1158</sup> Transcript of 24 May 2006, Fallah Bindi, p. 5.

("ronkos").<sup>1159</sup> They were armed with guns, sticks, machetes and cutlasses.<sup>1160</sup> As they marched, they sang Kamajor songs.<sup>1161</sup>

## 2.7.5. Crimes Committed in Kenema Town on Sunday, 15 February 1998

### 2.7.5.1. Killing of Two Young Tenants at TF2-154's Father's House

584. From the house of a neighbour, directly across the street from her father's house, TF2-154 watched Kamajors surround her home. She heard them say that they had come to kill her father and her family and to burn the house.<sup>1162</sup>

585. TF2-154 observed that Kamajors launched an RPG into her father's house and two young male tenants came running out.<sup>1163</sup> The tenants, who were aged approximately 19 and 22, were not related to TF2-154.<sup>1164</sup> Although both young men protested that they were not part of the junta, they were killed by the Kamajors.<sup>1165</sup> The Kamajors set TF2-154's father's house on fire.<sup>1166</sup>

### 2.7.5.2. Killing of Police Officers at the Kenema Police Barracks

#### 2.7.5.2.1. *Arrival of Kamajors at the Police Barracks*

586. On the morning of 15 February 1998, more than one hundred Kamajors entered Kenema via Sanoh Street and Suppui Street and went to the barracks.<sup>1167</sup> Some of the Kamajors were in traditional dress and had something smeared on their faces.<sup>1168</sup> They were armed with guns, bows and cutlasses.<sup>1169</sup> Gunshots were fired; after quite some time, they ceased.<sup>1170</sup>

#### 2.7.5.2.2. *The Killing of Sergeant Mason, Corporal Fandai and Momoh Tawol*

<sup>1159</sup> Transcript of 27 September 2004, TF2-154, p. 41.

<sup>1160</sup> Transcript of 17 September 2004, TF2-042, p. 100; Transcript of 20 September 2004, TF2-033, p. 8; Transcript of 27 September 2004, TF2-154, p. 41.

<sup>1161</sup> Transcript of 20 September 2004, TF2-033, p. 8.

<sup>1162</sup> Transcript of 27 September 2004, TF2-154, pp. 42 and 82-83.

<sup>1163</sup> Transcript of 27 September 2004, TF2-154, pp. 42-43, and 103-104.

<sup>1164</sup> Transcript of 27 September 2004, TF2-154, pp. 43 and 55.

<sup>1165</sup> Transcript of 27 September 2004, TF2-154, pp. 43-46, 75, 104-105 and 135-136.

<sup>1166</sup> Transcript of 27 September 2004, TF2-154, pp. 44 and 104.

<sup>1167</sup> Transcript of 21 September 2004, TF2-040, p. 22; Transcript of 20 September 2004, TF2-033, p. 11.

<sup>1168</sup> Transcript of 21 September 2004, TF2-040, p. 23.

<sup>1169</sup> Transcript of 21 September 2004, TF2-040, p. 23.

<sup>1170</sup> Transcript of 21 September 2004, TF2-040, pp. 26 and 87; Transcript of 23 September 2004, TF2-039, p. 120.

587. Two Kamajors chased Sergeant Mason through the police barracks on 15 February 1998.<sup>1171</sup> One Kamajor with a gun shot Sergeant Mason three times.<sup>1172</sup> Sergeant Mason fell to the ground and another Kamajor chopped at his head and neck with a cutlass. Sergeant Mason died from the wounds inflicted by these Kamajors.<sup>1173</sup>

588. A group of Kamajors stopped Corporal Fandai and asked him who he was. Corporal Fandai responded that he was a police officer. The Kamajors, who were speaking in Krio, told Corporal Fandai that they wanted to kill him. Corporal Fandai asked for time to pray but was shot three times.<sup>1174</sup> Corporal Fandai's corpse was found on the ground near his home.<sup>1175</sup>

589. Momoh Tawol was sitting on his veranda when Corporal Fandai was killed. He asked in Krio who had fired; one of the Kamajors responded in Krio that they had made a mistake. One of the Kamajors then shot Momoh Tawol four times. Momoh Tawol fell on his knees and was shot three more times. The same Kamajor who had chopped at Sergeant Mason's head chopped at Tawol's head and neck.<sup>1176</sup> Momoh Tawol's corpse was left outside near his home.<sup>1177</sup>

590. The same group of Kamajors killed Sergeant Mason, Corporal Fandai and Momoh Tawol.<sup>1178</sup>

2.7.5.2.3. *The Killing of Sergeant Turay*

591. TF2-039, a police officer, was stopped by a group of Kamajors that came to Kenema on Sunday morning, 15 February 1998.<sup>1179</sup> While the Kamajors were questioning him, Sergeant Turay came up to the group of Kamajors and was identified by one of them as the police supervisor.<sup>1180</sup> Sergeant Turay raised his hand to show the Kamajors an identification card and Brima Massaquoi,

<sup>1171</sup> Transcript of 20 September 2004, TF2-033, pp. 7 and 11-12.

<sup>1172</sup> Transcript of 20 September 2004, TF2-033, p. 12.

<sup>1173</sup> Transcript of 20 September 2004, TF2-033, p. 12; Transcript of 17 September 2004, TF2-042, p. 102; Transcript of 21 September 2004, TF2-040, p. 28.

<sup>1174</sup> Transcript of 20 September 2004, TF2-033, pp. 13-15.

<sup>1175</sup> Transcript of 21 September 2004, TF2-040, p. 28.

<sup>1176</sup> Transcript of 20 September 2004, TF2-033, pp. 15-16.

<sup>1177</sup> Transcript of 21 September 2004, TF2-040, p. 28; Transcript of 23 September 2004, TF2-039, p. 109.

<sup>1178</sup> Transcript of 20 September 2004, TF2-033, p. 17.

<sup>1179</sup> Transcript of 23 September 2004, TF2-039, pp. 97-98, and 100; Transcript of 27 September 2004, TF2-042, pp. 59-60.

<sup>1180</sup> Transcript of 23 September 2004, TF2-039, p. 103.

a Kamajor commander, chopped his hand.<sup>1181</sup> Sergeant Turay begged for his life and started backing up but Brima Massaquoi ordered the Kamajors to fire.<sup>1182</sup> Sergeant Turay was hit in the neck and did not get up again because there was constant firing.<sup>1183</sup> He died from wounds inflicted by the Kamajors.<sup>1184</sup>

2.7.5.2.4. *The Killing of SI Mimor*

592. SI Mimor, who was partially paralyzed, was limping towards his quarters when he was spotted by Kamajors who shouted in Krio, “[l]ook, at the policeman [...] that we’ve been [sic] looking for.” One of the Kamajors took his cutlass and chopped SI Mimor on his arm and leg. SI Mimor fell down, bleeding.<sup>1185</sup> His corpse was left outside.<sup>1186</sup>

2.7.5.2.5. *The Killing of OC Kano and Desmond Pratt*

593. OC Kano and Desmond Pratt were stopped and questioned by Kamajors as they walked across the police football field.<sup>1187</sup> OC Kano produced an identity card. After examining the card the Kamajors shot OC Kanu and Desmond Pratt.<sup>1188</sup> Desmond Pratt’s corpse was left outside.<sup>1189</sup>

2.7.5.3. Looting of TF2-033’s House

594. Armed Kamajors came to TF2-033’s house in the police barracks and threatened his life.<sup>1190</sup> The Kamajors grabbed his property and said they would return to collect the things that they had grabbed.<sup>1191</sup>

2.7.6. Fighting in Kenema Town on 16 February 1998

<sup>1181</sup> Transcript of 23 September 2004, TF2-039, pp. 103, 117-119.

<sup>1182</sup> Transcript of 23 September 2004, TF2-039, p. 104.

<sup>1183</sup> Transcript of 23 September 2004, TF2-039, p. 105; Transcript of 17 September 2004, TF2-042, pp. 64-67.

<sup>1184</sup> Transcript of 23 September 2004, TF2-039, p. 107; TF2-040 saw Sergeant Turay’s corpse: Transcript of 21 September 2004, TF2-040, p. 28; Transcript of 23 September 2004, TF2-039, p. 107.

<sup>1185</sup> Transcript of 20 September 2004, TF2-033, pp. 25-26 and 125.

<sup>1186</sup> Transcript of 23 September 2004, TF2-039, p. 109.

<sup>1187</sup> Transcript of 17 September 2004, TF2-042, pp. 64-67.

<sup>1188</sup> Transcript of 17 September 2004, TF2-042, pp. 64-67; Transcript of 20 September 2004, TF2-033, p. 27; Transcript of 20 September 2004, TF2-039, p. 108.

<sup>1189</sup> Transcript of 21 September 2004, TF2-040, p. 28; Transcript of 21 September 2004, TF2-040, p. 28; Transcript of 20 September 2004, TF2-033, p. 27; Transcript of 21 September 2004, TF2-040, p. 28.

<sup>1190</sup> Transcript of 20 September 2004, TF2-033, pp. 23-25 and 77.

<sup>1191</sup> Transcript of 20 September 2004, TF2-033, pp. 23-25 and 77.

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595. On the morning of Monday, 16 February 1998,<sup>1192</sup> the juntas returned and attacked Kenema.<sup>1193</sup> There was heavy exchange of fire between Kamajors and rebels for several hours.<sup>1194</sup>

596. Some of the firing against Kamajors came from the direction of the police barracks on Hangha Road.<sup>1195</sup> Fallah Bindi recognized policemen among the rebels that were shooting at the Kamajors: the police were wearing their blue uniforms, which had insignia on the shoulders and the trousers.<sup>1196</sup>

597. Eventually, the rebels were pushed out of Kenema.<sup>1197</sup> After they left, Kamajors established checkpoints and began patrolling the town.<sup>1198</sup>

598. Houses were burnt in Kenema during the fighting.<sup>1199</sup> Some of these houses were burnt by civilians because juntas were alleged to have lived there.<sup>1200</sup> Others were burnt by rebels as they retreated from Kenema.<sup>1201</sup>

#### 2.7.7. Crimes Committed in Kenema Town on and after Monday, 16 February 1998

##### 2.7.7.1. Killing of Police Officers at the Kenema Barracks

<sup>1192</sup> Transcript of 27 September 2004, TF2-154, p. 47.

<sup>1193</sup> Transcript of 27 September 2004, TF2-154, p. 47; Transcript of 25 May 2006, Lahai Koroma, pp. 14-15; Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 19-20; Transcript of 24 May 2006, Fallah Bindi, p. 65; Transcript of 23 May 2006, Brima Moriba, pp. 19-20 and 28-29; Transcript of 25 May 2006, Mohamed Swaray, p. 106.

<sup>1194</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 19-20; Transcript of 2 November 2004, TF2-021, p. 68; Transcript of 24 May 2006, Fallah Bindi, pp. 7-8 and p. 65; Transcript of 23 May 2006, Brima Moriba, pp. 13-14 and 17-20; Transcript of 28 September 2004, TF2-223, pp. 88-89 (CS); Transcript of 26 May 2006, Mohamed Kineh Swaray, pp. 17-18.

<sup>1195</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 19-20; Transcript of 28 September 2004, TF2-223, pp. 88-89 (CS); Transcript of 24 May 2006, Fallah Bindi, pp. 7-8; Transcript of 25 May 2006, Mohamed Kineh Swaray, p. 107.

<sup>1196</sup> Transcript of 24 May 2006, Fallah Bindi, pp. 10-11.

<sup>1197</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 19-20; Transcript of 2 November 2004, TF2-021, p. 68; Transcript of 24 May 2006, Fallah Bindi, pp. 7-8 and 65; Transcript of 23 May 2006, Brima Moriba, pp. 13-14 and 17-20; Transcript of 28 September 2004, TF2-223, pp. 88-89 (CS); Transcript of 26 May 2006, Mohamed Kineh Swaray, pp. 17-18.

<sup>1198</sup> Transcript of 23 May 2006, Brima Moriba, pp. 13-14, and 17-20; Transcript of 22 May 2006, Mohamed Bhonie Koroma, p. 61.

<sup>1199</sup> Transcript of 25 May 2006, Lahai Koroma, pp. 15-16; Transcript of 28 September 2004, TF2-223, pp. 80-81 (CS).

<sup>1200</sup> Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 20-23 and 62-63; Transcript of 24 May 2006, Fallah Bindi, p. 6; Transcript of 24 May 2006, Lahai Koroma, pp. 51-52.

<sup>1201</sup> Transcript of 05 November 2004, TF2-201, pp. 90-91; Transcript of 27 September 2004, TF2-152, p. 101; Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 20-21.

599. On Monday, 16 February 1998, after driving off the rebels, Kamajors entered the Kenema Police Barracks and started searching the houses.<sup>1202</sup> A group of three Kamajors searched the houses and killed some policemen that were hiding under their beds.<sup>1203</sup> At least one body was taken outside and burnt in the field.<sup>1204</sup>

#### 2.7.7.2. Looting in Kenema

600. In February 1998, Kamajors looted the property of a Mr. Samai from his house on the outskirts of Kenema.<sup>1205</sup>

601. One day in late February 1998,<sup>1206</sup> armed Kamajors arrived at TF2-144's house on Kahunla Street in Kenema. TF2-144 and his family were told to vacate their house, as the Kamajors had come from Kailahun and planned to worship there. Through CO Foday, TF2-144 managed to secure the intervention of Kamoh Brima and the Kamajors left.<sup>1207</sup> Five days later, a different group of Kamajors entered TF2-144's house and started removing his belongings, including a mattress in which TF2-144 stored his money. TF2-144 offered to pay the Kamajors to bring back the mattress, but they refused and threatened to kill him if he didn't leave.<sup>1208</sup> The Kamajors left with TF2-144's property.<sup>1209</sup>

#### 2.7.7.3. Arrest and Mistreatment of TF2-151; Killing of Alleged Junta

602. In late February 1998,<sup>1210</sup> TF2-151 was asked to accompany some Kamajors to the CDF office on Kaisamba Terrace.<sup>1211</sup> As they reached the junction closest to the CDF office, TF2-151 saw a boy run from the CDF office. He was pursued by people who shouted, "[c]atch him, he's a

<sup>1202</sup> Transcript of 2 November 2004, TF2-021, p. 68; Transcript of 28 September 2004, TF2-223, pp. 88-89 (CS).

<sup>1203</sup> Transcript of 2 November 2004, TF2-021, p. 69; Transcript of 3 November 2004, TF2-021, p. 59: Note it is only during cross-exam that TF2-021 elaborates that he was the person shooting under the beds.

<sup>1204</sup> Transcript of 2 November 2004, TF2-021, p. 69.

<sup>1205</sup> Transcript of 4 May 2006, Arthur Koroma, pp. 11-12.

<sup>1206</sup> When TF2-144 arrived in Kenema, ECOMOG and the Kamajors were both there. (Transcript of 24 February 2005, TF2-144, p. 73) Therefore it couldn't have been earlier than the 19<sup>th</sup> of February 1998. This event occurred at least a couple days after he first arrived in Kenema. (Transcript of 24 February 2005, TF2-144, p. 72)

<sup>1207</sup> Transcript of 24 February 2005, TF2-144, pp. 73 and 75; See also Transcript of 25 February 2005, TF2-144, p. 10.

<sup>1208</sup> Transcript of 24 February 2005, TF2-144, pp. 75-76.

<sup>1209</sup> Transcript of 24 February 2005, TF2-144, pp. 76 and 94.

<sup>1210</sup> TF2-151 testified that the AFRC was removed from power in February 1998: Transcript of 22 September 2004, TF2-151, pp. 6-7. When this event occurred, there were lots of Kamajors present in Kenema: Transcript of 22 September 2004, TF2-151, pp. 11-12. The events described in this paragraph may have happened just a few days after this: Transcript of 22 September 2004, TF2-151, p. 12.

<sup>1211</sup> Transcript of 22 September 2004, TF2-151, pp. 12 and 17.

junta.<sup>1212</sup> The boy was caught by a Kamajor who chopped at him with a machete.<sup>1213</sup> The boy fell and was set on fire by a group of Kamajors.<sup>1214</sup> The Kamajors accompanying TF2-151 to the CDF office started to beat him and warned that if he did not cooperate, they would do to him what had been done to the boy.<sup>1215</sup>

603. TF2-151 was taken to Mr. Fefegula's office inside the CDF Headquarters.<sup>1216</sup> He was stripped naked and was accused of being a junta.<sup>1217</sup> Though he denied the allegations the Kamajors continued to beat him.<sup>1218</sup> One Pa came and asked the Kamajors not to kill TF2-151; he was then released.<sup>1219</sup>

#### 2.7.7.4. Killing of Mr. Ojuku and Other Mistreatment

604. One morning, some time after the arrival of ECOMOG,<sup>1220</sup> when TF2-144 was at his house in Nyandeyama, he saw Kamajors come for Mr. Ojuku, who was sitting on a veranda.<sup>1221</sup> MO Foday gave an order and one of the Kamajors raised his gun and hit Mr. Ojuku on his chest.<sup>1222</sup> Mr. Ojuku fell down. The Kamajors trampled him and then dragged him to the back of the house.<sup>1223</sup> TF2-144 later heard people say that the Kamajors cut off Mr. Ojuku's head and took it to the market where Mr. Ojuku's wife was doing business.<sup>1224</sup>

605. Two days after the killing of Mr. Ojuku, TF2-144 saw Kamajors catch a man of 25 or 30 years at a checkpoint between Kahunla Street and Nyandeyama. The man was beaten, tied up and stabbed. TF2-144 left after seeing a Kamajor named Yamorto pierce the man's chest with a knife.<sup>1225</sup>

<sup>1212</sup> Transcript of 22 September 2004, TF2-151, pp. 12- 13.

<sup>1213</sup> Transcript of 22 September 2004, TF2-151, pp. 13 and 15.

<sup>1214</sup> Transcript of 22 September 2004, TF2-151, pp. 15 and 10-23.

<sup>1215</sup> Transcript of 22 September 2004, TF2-151, p. 15.

<sup>1216</sup> Transcript of 22 September 2004, TF2-151, p. 21.

<sup>1217</sup> Transcript of 22 September 2004, TF2-151, pp. 17- 18.

<sup>1218</sup> Transcript of 22 September 2004, TF2-151, p. 20.

<sup>1219</sup> Transcript of 22 September 2004, TF2-151, pp. 20-21.

<sup>1220</sup> When TF2-144 arrived in Kenema, ECOMOG and the Kamajors were both there, (Transcript of 24 February 2005, TF2-144, p. 73), meaning that the incidents described took place after 19 February 1998 (Transcript of 24 February 2005, TF2-144, p. 76, lines 19-20).

<sup>1221</sup> Transcript of 24 February 2005, TF2-144, p. 77.

<sup>1222</sup> Transcript of 24 February 2005, TF2-144, p. 78.

<sup>1223</sup> Transcript of 24 February 2005, TF2-144, p. 78.

<sup>1224</sup> Transcript of 24 February 2005, TF2-144, p. 78; See also Transcript of 25 February 2005, TF2-144, p. 13.

<sup>1225</sup> Transcript of 24 February 2005, TF2-144, pp. 79 and 81.

#### 2.7.7.5. Other Killings

606. Between mid-September 1998 and mid-December 1998,<sup>1226</sup> TF2-152 was arrested by Kamajors and taken to a cell at the CDF office at Kaisamba Terrace.<sup>1227</sup> KBK Magonna handed TF2-152 and one other person over to Colonel Biko, a.k.a. Yamorto, who took them to Nyandeyama Yamorto Base, which is by the roundabout near the town council and the court.<sup>1228</sup> On the way there, Colonel Biko cut open the stomach of TF2-152's friend and created a checkpoint by stringing this person's guts between two sticks.<sup>1229</sup> The friend was not yet dead.<sup>1230</sup> Colonel Biko and the Kamajors said, "[y]ou are going to die here."<sup>1231</sup> Various organs were removed from TF2-152's friend's torso. TF2-152 was taken to the Kamajor base where he was tied and stripped naked. A friend of TF2-152's arrived and rescued him.<sup>1232</sup>

607. During the same period, TF2-152 saw Kamajors kill two people at the NP petrol station on Blama Road. A tire was put on one and thatch on the other and they were set on fire. On Hangha Road, three people were killed opposite Capitol by the police barracks.<sup>1233</sup>

#### 2.7.7.6. Second Arrest and Further Mistreatment of TF2-151

608. In December 1998, a Kamajor came into TF2-151's shop and asked him to come along with him and Mr. Fefegula. They drove to a shop where spare parts were sold. Brima Kpaka came out of the shop and accused TF2-151 of being a junta.<sup>1234</sup> TF2-151 was taken to the CDF office at Kaisamba Terrace. The Kamajors beat him and put him in a cell. The following day, Mr. Fefegula and Brima Kpaka questioned TF2-151 and threatened to kill him if he lied. TF2-151 was again accused of being a junta. His hands were tied behind his back with FM rope and he was beaten by the Kamajors. Hours later, when Mr. Fefegula instructed that he should be released, TF2-151 was

<sup>1226</sup> TF2-152 testified that he was arrested a "long time" after his father's house was burnt down: Transcript of 27 September 2004, TF2-152, p. 106. Magonna was taking care of Kenema: Transcript of 27 September 2004, TF2-152, p. 111; see also Exhibit 89, p. 2, para. 7(b): "Mr Magona took up appointment as the National Task Force Commander CDF/SL in september [sic] 98 [...]"; see also p. 1, para. 1: "[Mr Magona] was arrested and detained on 14 Dec 98 in HQ 15 ECOMOG [...]"

<sup>1227</sup> Transcript of 27 September 2004, TF2-152, p. 110.

<sup>1228</sup> The Chamber finds that "Yandiamo Yamorto Base" and "Nyandeyama Yamorto Base" are the same location. Transcript of 27 September 2004, TF2-152, pp. 30-31.

<sup>1229</sup> Transcript of 27 September 2004, TF2-152, pp. 114-117.

<sup>1230</sup> Transcript of 27 September 2004, TF2-152, p. 152.

<sup>1231</sup> Transcript of 27 September 2004, TF2-152, p. 117.

<sup>1232</sup> Transcript of 27 September 2004, TF2-152, pp. 118-120.

<sup>1233</sup> Transcript of 27 September 2004, TF2-152, pp. 121 and 123.

<sup>1234</sup> Transcript of 22 September 2004, TF2-151, pp. 29-31.

in a great deal of pain. He was unable to use his hands for seven months. His wife had to clean him when he went to the toilet.<sup>1235</sup>

609. Two or three days after he was released, TF2-151 was re-arrested by KBK Magonna and was taken back to the CDF office. At the CDF office, KBK Magonna ordered that TF2-151's radio, money, jeans and sandals be taken from him. KBK Magonna ordered some Kamajors to beat TF2-151 and told him that he would come and kill him later. TF2-151 was put in a cell and remained there for some hours.

#### 2.7.8. Administration of Kenema after the Arrival of ECOMOG

610. ECOMOG arrived in Kenema on approximately 18 February 1998.<sup>1236</sup> This same day, Kenema was attacked by soldiers and rebels. Fallah Bindi's group chased the rebels out of Kenema, towards Kombema village.<sup>1237</sup> The rebels set fire to houses in Kombema as they were retreating.<sup>1238</sup>

##### 2.7.8.1. Establishment of a CDF Office in Kenema

611. While at Base Zero, Norman ordered some members of the War Council to leave Base Zero and establish CDF offices in Bo and Kenema.<sup>1239</sup> TF2-079 and TF2-201 are among those that opened the Kenema Office.<sup>1240</sup>

612. When TF2-079 and TF2-201 arrived in Kenema in mid- to late-February 1998, the CDF commanders in Kenema were KBK Magonna, Eddie Massallay and Arthur Koroma.<sup>1241</sup> Two days after the arrival of TF2-079 and TF2-201, a Kamajor Office was established at 27 Kaisamba Terrace.<sup>1242</sup> George Jambawai, the Regional Coordinator for the Eastern Region, became the head

<sup>1235</sup> Transcript of 22 September 2004, TF2-151, pp. 33-38. FM rope is a thin wire cord used to set traps to kill small animals. When someone is tied with FM rope, the rope goes into the flesh: see Transcript of 25 November 2004, TF2-088, pp. 93-94.

<sup>1236</sup> Transcript of 23 May 2006, Fallah Bindi, pp. 66-67 and 24 May 2006, pp. 14-16; Transcript of 21 September 2004, TF2-040, pp. 34 and 60; Transcript of 22 September 2004, TF2-151, pp. 79-80; Transcript of 17 September 2004, TF2-042, p. 72.

<sup>1237</sup> Transcript of 23 May 2006, Fallah Bindi, pp. 66-67.

<sup>1238</sup> Transcript of 23 May 2006, Fallah Bindi, pp. 66-67; Transcript of 05 November 2004, TF2-201, pp. 90-91.

<sup>1239</sup> Transcript of 26 May 2005, TF2-079, p. 66.

<sup>1240</sup> Transcript of 26 May 2005, TF2-079, p. 66; Transcript of 05 November 2004, pp. 56-59 (CS)

<sup>1241</sup> Transcript of 26 May 2005, TF2-079, p. 76.

<sup>1242</sup> Transcript of 05 November 2004, TF2-201, pp. 56-59 and 90-91 (CS); Transcript of 3 May 2006, Arthur Koroma, pp. 35-38; Transcript of 26 May 2006, Mohamed Swaray, p. 36; Transcript of 28 September 2004, TF2-223, p. 109 (CS); Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 69-70; Transcript of 26 May 2005, TF2-079, pp. 66-69.

of the new administration. TF2-079 was also part of the executive.<sup>1243</sup> Jambawai's administration lasted until June 1998. He was succeeded by Arthur Koroma, the District Administrator.<sup>1244</sup> During the administration of Arthur Koroma a base was opened at SS Camp where civilians were taken for detention.<sup>1245</sup>

613. One day after setting up the CDF office, TF2-201 went with ECOMOG Major Yayah Abu Bakarr, other Kamajors and police to SS Camp where they were shown a deep pit which Kamajors said was used to punish alleged rebel collaborators.<sup>1246</sup>

#### 2.7.8.2. National War Council Meeting of 20 and 21 April 1998 in Kenema Town

614. On 20 and 21 April 1998, George Jambawai chaired a meeting of the War Council in Kenema.<sup>1247</sup> The meeting was attended by TF2-068, RP Kombe Kajue and Eddie Massallay, among others.<sup>1248</sup> Minutes of this meeting were prepared by Chief Quee.<sup>1249</sup>

615. Various issues relating to command and control of the CDF were discussed at this meeting. For instance, a formal request was made to ECOMOG to transfer the responsibility for discipline to the CDF.<sup>1250</sup> CDF members were admonished to "stop all forms of reprisal killings" and to "refer all cases of junta collaboration to the police or to ECOMOG".<sup>1251</sup> They were also ordered to stop looting.<sup>1252</sup> All "active combatants and children associated with the fighting forces" were instructed to register themselves.<sup>1253</sup>

616. The War Council was dismantled after the meeting in Kenema.<sup>1254</sup>

#### 2.7.8.3. Meeting with Vice-President Demby on 28 June 1998 at Kenema Town Council

<sup>1243</sup> Transcript of 26 May 2005, TF2-079, pp. 78-83.

<sup>1244</sup> Transcript of 26 May 2005, TF2-079, pp. 78-83; Transcript of 22 May 2006, Mohamed Bhonie Koroma, pp. 69-70.

<sup>1245</sup> Transcript of 26 May 2005, TF2-079, pp. 81-82; Transcript of 27 May 2005, TF2-079, pp. 6-8.

<sup>1246</sup> Transcript of 05 November 2004, pp. 57-59 (CS).

<sup>1247</sup> Transcript of 18 September 2004, TF2-068, pp. 34-36 (CS)

<sup>1248</sup> Transcript of 18 September 2004, TF2-068, pp. 34-36(CS).

<sup>1249</sup> Exhibit 28, Confidential, p. 5.

<sup>1250</sup> Exhibit 28, para. 1(a).

<sup>1251</sup> Exhibit 28, para. 3(a).

<sup>1252</sup> Exhibit 28, para. 4.

<sup>1253</sup> Exhibit 28, para. 10.

<sup>1254</sup> Transcript of 18 September 2004, TF2-068, pp. 79 and 25-29 (CS).

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617. Norman, Vice-President Demby, Charles Margai and others attended a meeting at the Kenema Town Council on 28 June 1998.<sup>1255</sup> CDF members were instructed to return to their home chiefdoms and to register with their chiefdom authorities.<sup>1256</sup> There is no evidence that either Fofana or Kondewa were present at this meeting.

#### 2.7.8.4. Norman in Kenema and at SS Camp

618. Norman visited SS Camp when he made his first visit to Kenema after the overthrow of President Kabbah's government, some time between June and October 1998.<sup>1257</sup> In October 1998, President Kabbah assigned Norman and Vice-President Demby to Kenema to assist ECOMOG. In fulfilment of this assignment, Norman and Demby were resident in Kenema for almost one and a half months. During this time, they often went to see the displaced people at SS Camp.<sup>1258</sup>

### 2.8. Talia / Base Zero

#### 2.8.1. Inhumane Treatment of Civilians

##### 2.8.1.1. Capture and Beating of TF2-134 by Kamajors

619. TF2-134 was captured by Kamajors in a village near Bonthe and forcefully brought to Talia.<sup>1259</sup> The Kamajors were armed with cutlasses and machetes. After two separate unsuccessful attempts to escape,<sup>1260</sup> she was tied with FM rope and beaten until she vomited blood.<sup>1261</sup> TF2-134 was then kept in a guardroom until sometime later in the day when a Kamajor came and ordered her to leave.<sup>1262</sup>

620. During her captivity,<sup>1263</sup> TF2-134 learned that Moinina Fofana, "Sildia" and Allieu Kondewa were leaders in Talia.<sup>1264</sup> On one occasion, she saw a man complain to Kondewa that the Kamajors stole property. He wanted Allieu Kondewa to tell the Kamajors to stop. That evening, she heard Allieu Kondewa tell his boys that he had been receiving reports concerning their

<sup>1255</sup> Exhibit 134, para. B.

<sup>1256</sup> Exhibit 134, para. D.3-D.4.

<sup>1257</sup> Transcript of 02 February 2006, Sam Hinga Norman, p. 68.

<sup>1258</sup> Transcript of 02 February 2006, Sam Hinga Norman, p. 70.

<sup>1259</sup> Transcript of 3 June 2005, TF2-134, pp. 24-25.

<sup>1260</sup> Transcript of 3 June 2005, TF2-134, pp. 31-32.

<sup>1261</sup> Transcript of 3 June 2005, TF2-134, p. 33.

<sup>1262</sup> Transcript of 3 June 2005, TF2-134, pp. 33-34.

<sup>1263</sup> Transcript of 3 June 2005, TF2-134, p. 25.

<sup>1264</sup> Transcript of 3 June 2005, TF2-134, p. 26.

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behaviour. He said that the Kamajors were supposed to assist civilians and told them to stop harassing civilians and to stop stealing their property.<sup>1265</sup>

#### 2.8.1.2. Capture of TF2-109 and Looting

621. TF2-109 was captured by Kamajors along with other women and three men in her village of Matru Jong and was taken to Talia. A Kamajor named Kamoh Bonnie told TF2-109 that they were taking her to Talia to save her from the rebels. The Kamajors also took their property including furniture, household items and clothing. TF2-109 was held in Talia for three days.<sup>1266</sup> During that time, she met TF2-108.<sup>1267</sup>

#### 2.8.2. Killing of Civilians in Talia/Base Zero

##### 2.8.2.1. Killing of a Man by Kondewa at the Water Well in Talia

622. Sometime towards the end of 1997,<sup>1268</sup> several Kamajors entered Talia while dancing.<sup>1269</sup> The two men leading the dance were Town Commanders from another town in the direction of Kongo.<sup>1270</sup> They had been appointed Town Commanders by rebels, but they did not bear any signs of the RUF. The rebels had forced these men to organize the civilians from their town to provide assistance to the rebels.<sup>1271</sup>

623. When they entered Talia, the Town Commanders were not carrying guns.<sup>1272</sup> Allieu Kondewa and Kamoh Bonnie, Kondewa's priest,<sup>1273</sup> were among the Kamajors. They were standing behind the town commanders. TF2-096 witnessed Allieu Kondewa take a gun from Kamoh Bonnie, and shoot one of the Town Commanders.<sup>1274</sup> The next morning, TF2-096 saw two graves.

<sup>1265</sup> Transcript of 3 June 2005, TF2-134, pp. 29-30.

<sup>1266</sup> Transcript of 30 May 2005, TF2-109, pp. 31 and 33.

<sup>1267</sup> Transcript of 30 May 2005, TF2-109, pp. 38-39. See also the killings of Jusu Shalley, Baggie Vaiey and Lahai Lebbie.

<sup>1268</sup> Transcript of 8 November 2004, TF2-096, p. 27: TF2-096 describes this incident as occurring near the end of 1997 and during the period when Sam Hinga Norman arrived in Talia, though he was not there when this incident occurred. Norman arrived in Talia around mid-September, see section V.2.2.3.

<sup>1269</sup> Transcript of 8 November 2004, TF2-096, p. 24.

<sup>1270</sup> Transcript of 8 November 2004, TF2-096, p. 26.

<sup>1271</sup> Transcript of 8 November 2004, TF2-096, pp. 40-41.

<sup>1272</sup> Transcript of 8 November 2004, TF2-096, pp. 39-41.

<sup>1273</sup> Kamoh Bonnie is also spelt as Kamoh Boni.

<sup>1274</sup> Transcript of 8 November 2004, TF2-096, pp. 24-26.

She was told that the Town Commanders were buried within them.<sup>1275</sup> Joe Tamidey and Ngobeh were also present in Talia on the day Kondewa shot the Town Commander.<sup>1276</sup>

2.8.2.2. Capture of TF2-133 and Killing of her Mother

624. TF2-133 was captured on York Island by Kamajors. She was taken to Talia Yawbeko, where she stayed for one month. During that time, TF2-133 saw Kamajors kill her mother in the palm oil plantation.<sup>1277</sup>

2.8.2.3. Capture of TF2-188 and Killing of Her Mother

625. TF2-188 was captured together with her mother in Blama and both women were made to carry loads to Talia. When they arrived in Talia, Allieu Kondewa told his boys to capture TF2-188's mother and said that the mother should be killed. TF2-188 saw the Kamajors kill her mother.<sup>1278</sup>

2.8.2.4. Capture of TF2-189 and Killing of Her Husband

626. During the rainy season of 1997, TF2-189 was captured by Kamajors and taken to Talia Yawbeko.<sup>1279</sup> When TF2-189's husband came to Talia to see her, he was captured.<sup>1280</sup> The following morning, TF2-189's husband was surrounded by a crowd of civilians and Kamajors. The Kamajors cut TF2-189's husband's throat and decapitated him.<sup>1281</sup>

2.8.2.5. Killing of Jusu Shalley, Baggie Vaiey and Lahai Lebbie by Kamajors

627. The killings of Jusu Shalley, Baggie Vaiey and Lahai Lebbie were witnessed by women held in Talia Yawbeko. The three men were captured together and brought to Talia and were killed the same night that they arrived.<sup>1282</sup> A large group of Kamajors and civilians surrounded them. Lahai

<sup>1275</sup> Transcript of 8 November 2004, TF2-096, p. 27.

<sup>1276</sup> Transcript of 8 November 2004, TF2-096, p. 73; See section V.2.2.10.4; Joe Tamidey was called to Talia in order to attend the planning meeting for the attack on Koribondo. Although Joe Tamidey in his testimony does not specify when exactly he was called to Talia, the Chamber finds that he attended a meeting in January 1998 and subsequently left to lead the last attack on Koribondo, which occurred on 13 February 1998.

<sup>1277</sup> Transcript of 6 June 2005, TF2-133, pp. 5-6.

<sup>1278</sup> Transcript of 31 May 2005, TF2-188, pp. 14-18.

<sup>1279</sup> Transcript of 3 June 2005, TF2-189, pp. 4 and 7.

<sup>1280</sup> Transcript of 3 June 2005, TF2-189, p. 9.

<sup>1281</sup> Transcript of 3 June 2005, TF2-189, pp. 11-12. The Witness remained in Talia for approximately four months and then moved to Kalleh Wanjama for approximately five months. After that time, she returned to her home in Malima Yawbeko.

<sup>1282</sup> Transcript of 30 May 2005, TF2-108, pp. 5-6; Transcript of 30 May 2005, TF2-109, p. 35.

Lebbi was tied up by Kamajors and burnt to death.<sup>1283</sup> Jusu Shalley and Baggie Vaiey were killed with machetes.<sup>1284</sup> All three men were civilians.<sup>1285</sup>

628. The morning after the killing of these three men, the Kamajors summoned some of the captives, including TF2-109, to a parade. Sam Hinga Norman and Allieu Kondewa also attended the parade.<sup>1286</sup>

### 2.8.3. Treatment of Captured Enemy Combatants

629. There was no policy about keeping prisoners at Base Zero and there were no prisons in which to house prisoners.<sup>1287</sup> Once the government was reinstated, prisoners came solely under the purview of ECOMOG.<sup>1288</sup>

#### 2.8.3.1. Killing of a Surrendered Soldier from Koribondo in Talia

630. Sometime after 13 February 1998,<sup>1289</sup> a soldier, named Sgt. Kamanda<sup>1290</sup> was brought to Talia from Koribondo to surrender. Norman was not in Talia when the soldier arrived. Sgt. Kamanda was killed. When Norman returned to Talia and learned of the soldier's death, he said that the soldier should not have been killed, but should have been used for training.<sup>1291</sup>

### 2.8.4. Treatment of Collaborators

#### 2.8.4.1. Detention of TF2-096's Friend by Kondewa

631. Kondewa's bodyguards Kafi Jini, Jahman,<sup>1292</sup> Junisa and Bokindeh came to Talia to buy cassava from TF2-096. They said that TF2-096's friend, who was also selling cassava, was a rebel.<sup>1293</sup> Jahman reported TF2-096's friend to Kondewa and later that day, Kamajors arrested TF2-096

<sup>1283</sup> Transcript of 30 May 2005, TF2-108, pp. 12 and 14; Transcript of 30 May 2005, TF2-109, p. 34.

<sup>1284</sup> Transcript of 30 May 2005, TF2-108, pp. 6-8, and 12; Transcript of 30 May 2005, TF2-109, pp. 42-43.

<sup>1285</sup> Transcript of 30 May 2005, TF2-108, p. 12. The Chamber has determined that Jusu Shalley was also a civilian.

<sup>1286</sup> Transcript of 30 May 2005, TF2-109, pp. 35-37.

<sup>1287</sup> Transcript of 8 June 2005, TF2-011, p. 26 (CS).

<sup>1288</sup> Transcript of 6 February 2006, Sam Hinga Norman, p. 35; Transcript of 7 February 2006, Sam Hinga Norman, pp. 54-55.

<sup>1289</sup> Transcript of 8 November 2004, TF2-096, p. 21.

<sup>1290</sup> See section V.2.4.5.5.

<sup>1291</sup> Transcript of 8 November 2004, TF2-096, p. 20-22.

<sup>1292</sup> Jahman is also spelt as German.

<sup>1293</sup> Transcript of 8 November 2004, TF2-096, pp. 28-29.

friend and took her to Nyandehun. She was held in a cage and was not released until 40,000 leones were paid to Kondewa.<sup>1294</sup>

## 2.8.5. Killings as Part of Kamajor Rituals

### 2.8.5.1. Killing of Mustafa Fallon in the Poro Bush in Talia

632. Sometime between January and March 1998, Mustafa Fallon was killed in the Poro Bush<sup>1295</sup> in Talia as part of a Kamajor ritual. Mustafa Fallon was a fighting Kamajor who had been enlisted by Bobor Tucker, a.k.a. Jegbeyama, of the Death Squad.<sup>1296</sup> Many Kamajors were present when he was killed including Junisa, Gaima, Gibrilla, Amara Sengay, Jahman, Dr. Jigbao and Mustafa Fallon's two brothers, Momoh Rogers and Sheku Massaquoi. Norman, Fofana and Kondewa were also present. Norman threatened to kill anyone who told the truth about Mustafa Fallon's death. He said "[i]f you go and explain outside and if somebody should cry, if that secret leaks, we will kill you because you have nowhere to go. You cannot go to Bo. As long as you are within the Kamajor zone I have absolute power to get you wherever you are."<sup>1297</sup>

### 2.8.5.2. Killing of Alpha Dauda Kanu

633. Alpha Dauda Kanu was one of about 40 Kapras from Gbonkolenken Chiefdom in Tonkolili District who had come to Talia for training. He was killed sometime between December 1997 and January 1998 in the palm oil plantation near Talia as part of a Kamajor ritual.<sup>1298</sup> Upon learning of Alpha Dauda Kanu's killing, the Kapra leader lodged a complaint with Fofana, who then brought the complaint to Norman.<sup>1299</sup>

634. Norman explained to the Kapras' leader that Kanu's death was necessary because parts of his body would be used to make a garment and other items that would make Norman very powerful.<sup>1300</sup> Kondewa began dissecting Alpha Dauda Kanu's corpse. When the Kapra's leader

<sup>1294</sup> Transcript of 8 November 2004, TF2-096, pp. 29-30 and 33-35.

<sup>1295</sup> The Poro Bush is a place where men go to be initiated into male society. It is found in most Mende settlements. See Transcript of 7 February 2006, Sam Hinga Norman, pp. 76-77.

<sup>1296</sup> Transcript of 27 September 2006, Mohammed Fallon, p. 25. Mohammed Fallon was not found to be a credible witness during his testimony concerning the death of Mustafa Fallon.

<sup>1297</sup> Transcript of 10 March 2005, Albert J Nallo, pp. 54 and 59 lines 11-15.

<sup>1298</sup> Transcript of 19 November 2004, TF2-017, pp. 58-60 and 62. (CS).

<sup>1299</sup> Transcript of 19 November 2004, TF2-017, pp. 66 and 69 (CS).

<sup>1300</sup> Transcript of 19 November 2004, TF2-017, pp. 69-70 (CS); Transcript of 10 March 2005, Albert J Nallo, p. 60.

continued to complain, Fofana began shouting. He told the Kapras' leader to stop arguing and said that he should be satisfied with the explanation given by Norman.<sup>1301</sup>

## 2.8.6. Looting

### 2.8.6.1. Arrival of a Truck in Talia

635. A truck carrying cocoa and coffee arrived in Talia. It was unloaded and the contents were given to the Director of War, Fofana and the High Priest, Kondewa. The truck was detained in Talia.<sup>1302</sup>

## 2.9. Moyamba District

### 2.9.1. Background to Moyamba District

636. During the first stage of the conflict, from 1991 to 1994, SLA forces were deployed in Moyamba District. These forces harassed civilians and took away their property. Cases of rape and killing were reported; the harassment of alleged collaborators increased by the end of 1994 as rumours of imminent RUF attacks grew stronger.<sup>1303</sup>

637. During the second stage of the conflict, from 1994 to 1998, the RUF forces settled in Moyamba District. At the same time, Kamajor society developed in Moyamba District. In early 1995, RUF forces entered Moyamba District. The RUF made incremental advances towards Freetown but were stopped by SLA forces; however, the RUF forces settled where they had been stopped and progressively reached all the chiefdoms in Moyamba District. The RUF established a strong base in the north. The chiefdoms in the south of the District were less affected as most of the actions of the RUF were concentrated in the northern part of the district.

638. In June 1997 the AFRC attacked Moyamba Town; they remained<sup>1304</sup> in control for eight days.<sup>1305</sup> Between the middle and the end of August 1997,<sup>1306</sup> the Kamajors went to Tihun.<sup>1307</sup>

<sup>1301</sup> Transcript of 19 November 2004, TF2-017, pp. 77, line 29 and 78, lines 1-4 (CS).

<sup>1302</sup> Transcript of 17 November 2004, TF2-068, p. 92 (CS).

<sup>1303</sup> Exhibit 119G.

<sup>1304</sup> Transcript of 7 March 2005, TF2-165, pp. 4 and 27.

<sup>1305</sup> Transcript of 7 March 2005, TF2-165, p. 5.

<sup>1306</sup> TF2-165 testified that a few weeks or two months after the AFRC Coup on 25 May 1997 the AFRC were in control of Moyamba for eight days. TF2-165 was waiting 19 days in the bush before he went back to Moyamba. Subsequently, this must have been around middle to the end of August 1997.

<sup>1307</sup> Transcript of 7 March 2005, TF2-165, pp. 6-7.

After some time they returned to Moyamba in full strength under the leadership of Mustapha Ngobeh.<sup>1308</sup> Kenei Torma<sup>1309</sup> was the second-in-command to Mustapha Ngobeh.<sup>1310</sup>

2.9.2. Crimes committed in Moyamba Town

2.9.2.1. Murder of Mr. Thomas in Moyamba

639. After the Kamajors returned to Moyamba they searched for collaborators.<sup>1311</sup> The Kamajors looked specifically for Mr. Thomas,<sup>1312</sup> who was suspected of collecting information from Moyamba and selling it to the AFRC at Camp Charlie in Mile 91.<sup>1313</sup> When the Kamajors found Mr. Thomas they took him to Mustapha Ngobeh's place.<sup>1314</sup> Three or four days later, TF2-165 saw Mr. Thomas in the midst of a group of Kamajors<sup>1315</sup> who were singing, and dancing as they headed towards Shenge Park in Moyamba Town.<sup>1316</sup> People from the town stood around and waited to see what was going to happen to Mr. Thomas. TF2-165 heard the Kamajors say: "Go, [...] you are now a free man [...]"<sup>1317</sup> Mr. Thomas began to leave but was shot in the back by a Kamajor and fell.<sup>1318</sup> Kamajors dragged Mr. Thomas' corpse to Langowa Street where they decapitated him.<sup>1319</sup> Some Kamajors drank blood from the body of Mr. Thomas; some rubbed the blood on their bodies; and one Kamajor took Thomas' head and placed it on his own head.<sup>1320</sup> The Kamajors proceeded along Langowa Street with Mr. Thomas' head still on one of the Kamajor's heads. The headless body of Mr. Thomas was left in Langowa Street for some time.<sup>1321</sup>

2.9.2.2. Killing of One Person in Shenge Park (Moyamba Town)

<sup>1308</sup> Transcript of 7 March 2005, TF2-165, p. 7: the spelling Moustafa Ngobea is also used in the transcript.  
<sup>1309</sup> The spelling Kini Torma is also used in the transcript.  
<sup>1310</sup> Transcript of 7 March 2005, TF2-165, p. 9.  
<sup>1311</sup> Transcript of 7 March 2005, TF2-165, pp. 10-14.  
<sup>1312</sup> Transcript of 7 March 2005, TF2-165, p. 10.  
<sup>1313</sup> Transcript of 7 March 2005, TF2-165, p. 10.  
<sup>1314</sup> Transcript of 7 March 2005, TF2-165, p. 11.  
<sup>1315</sup> Transcript of 7 March 2005, TF2-165, p. 12.  
<sup>1316</sup> Transcript of 7 March 2005, TF2-165, p. 12.  
<sup>1317</sup> Transcript of 7 March 2005, TF2-165, p. 12.  
<sup>1318</sup> Transcript of 7 March 2005, TF2-165, p. 12-13.  
<sup>1319</sup> Transcript of 7 March 2005, TF2-165, p. 13.  
<sup>1320</sup> Transcript of 7 March 2005, TF2-165, p. 14.  
<sup>1321</sup> Transcript of 7 March 2005, TF2-165, p. 14. The Chamber notes that TF2-165 testified that Mr. Thomas was killed three or four weeks before Mustapha Ngobeh died (Transcript of 7 March 2005, p. 15).





640. In late 1997 or early 1998, Kamajors brought three people to Shenge Park.<sup>1322</sup> The Kamajors set fire to a tire on Chief Siaka Stevens Street opposite the court *barri*.<sup>1323</sup> A few minutes later they brought three hairless men from the Native Administration cell.<sup>1324</sup> The Kamajors said that they would give justice to one of the three in Moyamba but that the other two would be taken back to Shenge so that their people would know they were “bad” people.<sup>1325</sup> The hands of all three men were tied.<sup>1326</sup> The Kamajors placed one of the men on the fire and he burnt to ashes.<sup>1327</sup> Kenei Torma and Chuck Norris were in control of the Kamajors in Moyamba at that time.<sup>1328</sup>

### 2.9.3. Sembehun and Surroundings

#### 2.9.3.1. Arrival of Kamajors and Setting up of Checkpoints

641. In November 1997, Kamajors came to Sembehun, Bagruwa Chiefdom, Moyamba District<sup>1329</sup> and took control of security there.<sup>1330</sup> They wore Kamajor attire and were armed with guns.<sup>1331</sup> These Kamajors took control of the exit and entry checkpoints that had been manned by local Kamajors.<sup>1332</sup> The newly arrived Kamajors waited at the checkpoints and pounced on villagers returning from their farms and looted food and other properties from the villagers.<sup>1333</sup> The Kamajors also went to the surrounding villages and looted food and other goods.<sup>1334</sup> The newly arrived Kamajors were based with the head of the local Kamajors, a Ground Commander named Teacher Edward Challe.<sup>1335</sup>

642. On the evening the Kamajors arrived, Mr. Nbada Fofana was harassed at the Sembehun entry check point by the visiting Kamajors.<sup>1336</sup> He was stopped, forced out of his Mercedes Benz car and stripped of his money and his clothes. Nbada Fofana’s car was taken from him by the

<sup>1322</sup> Transcript of 7 March 2005, TF2-165, p. 15.

<sup>1323</sup> Transcript of 7 March 2005, TF2-165, p. 16.

<sup>1324</sup> Transcript of 7 March 2005, TF2-165, p. 16.

<sup>1325</sup> Transcript of 7 March 2005, TF2-165, p. 17.

<sup>1326</sup> Transcript of 7 March 2005, TF2-165, p. 17.

<sup>1327</sup> Transcript of 7 March 2005, TF2-165, p. 17.

<sup>1328</sup> Transcript of 7 March 2005, TF2-165, pp. 17-18.

<sup>1329</sup> Transcript 2 March 2005, TF2-073, p. 28.

<sup>1330</sup> Transcript of 2 March 2005, TF2-073, p. 28.

<sup>1331</sup> Transcript of 2 March 2005, TF2-073, p. 30.

<sup>1332</sup> Transcript of 2 March 2005, TF2-073, p. 29.

<sup>1333</sup> Transcript of 2 March 2005, TF2-073, p. 30.

<sup>1334</sup> Transcript of 2 March 2005, TF2-073, p. 30.

<sup>1335</sup> Transcript of 2 March 2005, TF2-073, p. 31.

<sup>1336</sup> Transcript of 2 March 2005, TF2-073, p. 31.

Kamajors.<sup>1337</sup> Nbada Fofana managed to get the local Kamajors to return the vehicle to him, but when he attempted to leave Sembehun, the Kamajors at the exit checkpoint refused to allow him to leave. They said, “[n]o, you can't get this vehicle out of this place.” Nbada Fofana went to TF2-073 and they decided to drive the vehicle to Shenge. They drove the vehicle 36 miles to Shenge and left the car there in the hands of the Shenge Kamajors.<sup>1338</sup>

643. The same evening, Mrs. Gorvie was stopped by Kamajors at the same checkpoint. Although she was sick, Mrs. Gorvie was forced out of her car and left on the ground.<sup>1339</sup> Her car was taken away from her.<sup>1340</sup>

#### 2.9.3.2. Crimes Committed by Kamajors on their Second Day in Sembehun

##### 2.9.3.2.1. *Looting in the Villages Surrounding Sembehun*

644. The day after the Kamajors arrived in Sembehun, they went the surrounding villages and looted livestock, food and clothing.<sup>1341</sup>

##### 2.9.3.2.2. *Threatening of the Witness TF2-073's Children and Pillage*

645. The second day after the Kamajors arrival, six Kamajors came to TF2-073's house in the evening. The Kamajors led TF2-073 out to the veranda at gunpoint and surrounded him.<sup>1342</sup> They said that they were Kondewa's Kamajors and that they had come from Talia, Tihun, Gbangbatoke and other surrounding villages. Three of them introduced themselves as Steven Sowa, Moses Mbalacolor and Mohamed Sankoh. Mohamed Sankoh said he was Deputy Director of War under Norman.<sup>1343</sup> The Kamajors wanted to inspect TF2-073's garage for arms and ammunition but he did not have the keys. The Kamajors then went to his garage anyway and saw TF2-073's Mercedes Benz car through a hole in the garage wall. The Kamajors told TF2-073 that they wanted to run a few errands with the car.<sup>1344</sup> The Kamajors sent for six more Kamajors to reinforce their group.<sup>1345</sup> They then broke into TF2-073's house, beat his children with gun butts and ransacked the house.

<sup>1337</sup> Transcript of 2 March 2005, TF2-073, p. 32.

<sup>1338</sup> Transcript of 2 March 2005, TF2-073, pp. 40-41.

<sup>1339</sup> Transcript of 2 March 2005, TF2-073, p. 32.

<sup>1340</sup> Transcript of 2 March 2005, TF2-073, p. 32.

<sup>1341</sup> Transcript of 2 March 2005, TF2-073, pp. 33-34.

<sup>1342</sup> Transcript of 2 March 2005, TF2-073, p. 34.

<sup>1343</sup> Transcript of 2 March 2005, TF2-073, pp. 34-35.

<sup>1344</sup> Transcript of 2 March 2005, TF2-073, p. 35.

<sup>1345</sup> Transcript of 2 March 2005, TF2-073, p. 35.

The Kamajors found TF2-073's car keys and garage keys took TF2-073's car to their base in town.<sup>1346</sup> The Kamajors also took other things that were in the garage, including a generator, car tires and many other gadgets.<sup>1347</sup>

646. From Sembehun TF2-073's vehicle was taken to Talia where it was used by Norman and then given to Kondewa.<sup>1348</sup>

647. Some time later, TF2-073 received information that his car was being used by Kondewa in Bo.<sup>1349</sup> TF2-073 went to ECOMOG's Anti-Looting Committee at the Brookfields Office in Freetown.<sup>1350</sup> He eventually obtained a letter ordering the return of his car from Charles Margai, the Minister of Internal Affairs for the Regional Minister of the Southern Province. The ECOMOG office in Freetown gave TF2-073 a similar letter for him to give to ECOMOG in Bo.<sup>1351</sup>

648. In Bo, TF2-073 saw his car being driven around; Kondewa was a passenger in the back of the car.<sup>1352</sup> On the back of the car was written "King Kindo".<sup>1353</sup> TF2-073 was invited by ECOMOG to inspect the car which he found had been severely damaged. When TF2-073 regained possession of his car he spent a lot of money on repairs.<sup>1354</sup>

### 2.9.3.3. Looting and Murder in Yakarji

649. On the morning of the third day after the Kamajors arrived in Sembehun, they travelled two miles to a village called Yakarji.<sup>1355</sup> In Yakarji the Kamajors looted a Mazda van which had been in the care of TF2-073's brother-in-law.<sup>1356</sup> The Kamajors beat TF2-073's brother-in-law severely and forced him to show them where the van was located.<sup>1357</sup> They looted the vehicle and

<sup>1346</sup> Transcript of 2 March 2005, TF2-073, p. 37.

<sup>1347</sup> Transcript of 2 March 2005, TF2-073, p. 37.

<sup>1348</sup> Transcript of 15 March 2005, Albert J Nallo, p. 48.

<sup>1349</sup> Transcript of 2 March 2005, TF2-073, p. 42.

<sup>1350</sup> Transcript of 2 March 2005, TF2-073, p. 42.

<sup>1351</sup> Transcript of 2 March 2005, TF2-073, p. 43.

<sup>1352</sup> Transcript of 2 March 2005, TF2-073, p. 45.

<sup>1353</sup> Transcript of 2 March 2005, TF2-073, p. 45.

<sup>1354</sup> Transcript of 2 March 2005, TF2-073, pp. 45- 46.

<sup>1355</sup> Transcript of 2 March 2005, TF2-073, p. 39.

<sup>1356</sup> Transcript of 2 March 2005, TF2-073, p. 39.

<sup>1357</sup> Transcript of 2 March 2005, TF2-073, p. 39.

brought it back to their base in Sembehun. TF2-073's brother-in-law died from the beatings a few weeks after this event.<sup>1358</sup>

#### 2.9.4. Looting in Shenge, Kagboro Chiefdom

650. The same morning the Kamajors went to Shenge, 36 miles from Sembehun,<sup>1359</sup> in the three cars that they had looted.<sup>1360</sup> They returned from Shenge in the evening with goods, livestock, food and a drum of petrol.<sup>1361</sup>

#### 2.9.5. CDF Control of Rokonta and Surrounding Areas

##### 2.9.5.1. CDF Control in Rokonta and Mabang

651. At the end of 1997, the CDF attacked Rokonta Village and Mabang and gained control of these areas. At this time the CDF was under the leadership of Obai.<sup>1362</sup> The relationship between the CDF and the general population was not good because the CDF were armed and they harassed the civilians.<sup>1363</sup>

##### 2.9.5.2. Looting by Kamajors and CDF Meeting on 23 December 1997

652. On 23 December 1997, nearly 20 CDF militants<sup>1364</sup> came to Rokonta and attacked the house of TF2-166's father under the guise of looking for him.<sup>1365</sup> They took all of her father's property.<sup>1366</sup> TF2-166 reported the incident to the Honourable Minister Alex Koroma, who called a CDF meeting in Waterloo Town.<sup>1367</sup> At a meeting in the last week of December 1997, which was chaired by Alex Koroma and Paramount Chief Charles Caulker, Kamajor Obai told TF2-166: "You [...] tell your father that we suspect that he's a junta or he's a collaborator, and we must make

<sup>1358</sup> Transcript of 2 March 2005, TF2-073, p. 39.

<sup>1359</sup> Transcript of 2 March 2005, TF2-073, p. 38.

<sup>1360</sup> Transcript of 2 March 2005, TF2-073, p. 38.

<sup>1361</sup> Transcript of 2 March 2005, TF2-073, p. 38.

<sup>1362</sup> Transcript of 8 March 2005, TF2-166, p. 57.

<sup>1363</sup> Transcript of 8 March 2005, TF2-166, p. 57.

<sup>1364</sup> Transcript of 8 March 2005, TF2-166, p. 58.

<sup>1365</sup> Transcript of 8 March 2005, TF2-166, p. 58.

<sup>1366</sup> Transcript of 8 March 2005, TF2-166, p. 58.

<sup>1367</sup> Transcript of 8 March 2005, TF2-166, p. 60.

sure that we kill him.”<sup>1368</sup> Paramount Chief Caulker then added: “The Pa, if it is true that he is a junta or a collaborator, we’ll make sure that these people see him again.”<sup>1369</sup>

### 2.9.5.3. Arrest of TF2-166’s Family and Killing of her Father on 11 May 1998

653. The CDF returned and entered Rokonta Village on Sunday, 11 May 1998 at 8:00pm.<sup>1370</sup> The Kamajors arrived at TF2-166’s father’s house and opened fire. The family tried to escape to Mabang<sup>1371</sup> but some of them were captured, including TF2-166 and her parents. TF2-166’s father was hit<sup>1372</sup> and taken in a vehicle with some family members<sup>1373</sup> to Masanki Village<sup>1374</sup> where Amadou Mahoi was the CDF commander.<sup>1375</sup> Those captured had to carry her father’s looted property.<sup>1376</sup> Gibrille Kamara, a CDF from Rokonta, came and tied her father’s hands;<sup>1377</sup> the latter shouted and offered 500,000 leones to the CDF to spare his life. They took the money and Lamina Pupil, a CDF member, said that they would kill TF2-166’ father. One CDF said: “This child [...] is sharp, [...] let’s tie her and kill her after killing the father. [sic]” They said they would rape TF2-166 before killing her.<sup>1378</sup> One CDF, Mohamed Lingon, tied TF2-166’s left foot. Mohamed Koroma of Mayenoh and Commander Amadou Muhoi<sup>1379</sup> stabbed the witness’ father in the eye with a knife,<sup>1380</sup> cut his mouth<sup>1381</sup> and threw hot water on him. TF2-166’s father died.<sup>1382</sup> TF2-166 escaped with the help of one Kamajor.<sup>1383</sup>

## 2.9.6. Bradford

### 2.9.6.1. Background to Bradford

<sup>1368</sup> Transcript of 8 March 2005, TF2-166, p. 61.

<sup>1369</sup> Transcript of 8 March 2005, TF2-166, p. 62.

<sup>1370</sup> Transcript of 8 March 2005, TF2-166, p. 63.

<sup>1371</sup> Transcript of 8 March 2005, TF2-166, pp. 66-67.

<sup>1372</sup> Transcript of 8 March 2005, TF2-166, p. 67.

<sup>1373</sup> Transcript of 8 March 2005, TF2-166, p. 68.

<sup>1374</sup> Transcript of 8 March 2005, TF2-166, p. 67.

<sup>1375</sup> Transcript of 8 March 2005, TF2-166, p. 69.

<sup>1376</sup> Transcript of 8 March 2005, TF2-166, p. 68.

<sup>1377</sup> Transcript of 8 March 2005, TF2-166, p. 69.

<sup>1378</sup> Transcript of 8 March 2005, TF2-166, p. 70-71.

<sup>1379</sup> Transcript of 8 March 2005, TF2-166, p. 71.

<sup>1380</sup> Transcript of 8 March 2005, TF2-166, p. 73.

<sup>1381</sup> Transcript of 8 March 2005, TF2-166, p. 75.

<sup>1382</sup> Transcript of 8 March 2005, TF2-166, pp. 76-77.

<sup>1383</sup> Transcript of 8 March 2005, TF2-166, p. 77.

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654. In 1996, rebels based in Bradford troubled, harassed and looted farmers.<sup>1384</sup> When soldiers came to Bradford during the AFRC period, all the civilians had fled.<sup>1385</sup> In 1997, the CDF was based in Bumpah. ECOMOG was based in Bradford, so the CDF did not go to come to town. After ECOMOG left Bradford, the CDF and the Kamajors went there on 8 March 1998.<sup>1386</sup> The relationship between Kamajors and civilians was poor; when the Kamajors saw civilians, they would beat them.<sup>1387</sup> During this time there was no Paramount Chief in Bradford and everyone who could afford to do so had left Bradford for Freetown. It was relatively safe in Bradford and there was no rebel activity.<sup>1388</sup>

#### 2.9.6.2. Murder of Ruffus Charlie speaker at Bradford in 1997

655. In late 1997 Albert J Nallo was the CDF Director of Operations in Moyamba.<sup>1389</sup> In this capacity Albert J Nallo had control over Moyamba District. When Albert J Nallo went to Moyamba Town, he learned from Mustapha Ngobeh that four days earlier Abu Bawote, the Commander in the Ribbi area,<sup>1390</sup> had killed the Chiefdom Speaker. Mustapha Ngobeh related that he had seen Abu Bawote in Bradford with the severed hand of the Chiefdom Speaker; Bawote had dried the hand and tied in to his neck as a necklace. Albert J Nallo reported this incident to Fofana and Norman and told Norman that this Chiefdom Speaker was a collaborator. Norman responded: "Well, a Collaborator deserves that. That was the standing order. You know that was the standing order I passed long ago."<sup>1391</sup>

#### 2.9.6.3. Meeting of Kamajors in Bradford on 8 March 1998 (First Arrival)

656. On 8 March 1998, the Kamajors arrived in Bradford under the leadership of Obai. Obai called a meeting with the residents of Bradford.<sup>1392</sup> Obai informed those assembled that Norman had appointed him to the position of commander for the area between Bumpah and Ribbi.

<sup>1384</sup> Transcript of 3 March 2005, TF2-168, p. 54.

<sup>1385</sup> Transcript of 4 March 2005, TF2-173, p. 87.

<sup>1386</sup> Transcript of 3 March 2005, TF2-168, pp. 55-56.

<sup>1387</sup> Transcript of 4 March 2005, TF2-173, p. 87.

<sup>1388</sup> Transcript of 4 March 2005, TF2-168, p. 42.

<sup>1389</sup> Transcript of 10 March 2005, Albert J Nallo, p. 60.

<sup>1390</sup> Transcript of 10 March 2005, Albert J Nallo, p. 61.

<sup>1391</sup> Transcript of 10 March 2005, Albert J Nallo, p. 62, lines 21-28.

<sup>1392</sup> Transcript of 3 March 2005, TF2-168, p. 56; Transcript of 8 March 2005, TF2-167, p. 52.

Although Obai did not show a letter of appointment, nobody dared to ask him for it.<sup>1393</sup> The Kamajors who came with Obai and were present at the meeting were from Rotifunk, Bumpe, Moyamba and Malako. After the meeting Obai and his group returned to Bumpe.<sup>1394</sup> Obai led a group that patrolled between Bumpe and Ribbi.<sup>1395</sup>

#### 2.9.6.4. Pillage in Bradford on 19 March 1998 (Second Arrival)

657. During the night of 19 March 1998, Kamajors came to Bradford and raided the entire town.<sup>1396</sup> The Kamajors were armed with guns, machetes, axes and knives.<sup>1397</sup> They entered civilian homes and forcefully looted clothing and food.<sup>1398</sup> The Kamajors entered TF2-167's house and looted 63 bags of husk rice.<sup>1399</sup>

#### 2.9.6.5. Third Arrival at Bradford on 23 March 1998

658. On 23 March 1998, Kamajors came to Bradford at 7:00am. There were Kamajors from Moyamba as well as Obai's group; Obai commanded them all. The Kamajors fired indiscriminately at the civilian population. All the families of Bradford ran and hid in the bush.<sup>1400</sup> TF2-167's grandson Aluseini, who was three and a half years old, was shouting. One Kamajor shot at him and Aluseini died.<sup>1401</sup> The Kamajors threatened to kill all of TF2-167's children.<sup>1402</sup>

659. TF2-167's son Ibrahim was shot in the head by Kamajors while he was trying to escape. TF2-167 found Ibrahim alive and although his son survived, Ibrahim no longer behaves normally all the time. During this attack, Kamajors looted from TF2-167.<sup>1403</sup>

#### 2.9.6.6. Fourth Arrival at Bradford of the Kamajors on 25 March 1998

660. On 25 March 1998, Kamajors under the command of Obai returned to Bradford and again fired at civilians. TF2-168's wife ran into the thick bush but was caught by the Kamajors.

<sup>1393</sup> Transcript of 3 March 2005, TF2-168, p. 57; Transcript 4 March 2005, TF2-168, p. 47.

<sup>1394</sup> Transcript of 4 March 2005, TF2-168, p. 46.

<sup>1395</sup> Transcript of 3 March 2005, TF2-168, p. 57; Transcript 4 March 2005, TF2-168, p. 47.

<sup>1396</sup> Transcript of 8 March 2005, TF2-167, p. 30.

<sup>1397</sup> Transcript of 8 March 2005, TF2-167, p. 28; Transcript of 3 March 2005, TF2-168, pp. 47-48.

<sup>1398</sup> Transcript of 8 March 2005, TF2-167, pp. 29, 33.

<sup>1399</sup> Transcript of 4 March 2005, TF2-168, p. 25.

<sup>1400</sup> Transcript of 3 March 2005, TF2-168, p. 59.

<sup>1401</sup> Transcript of 8 March 2005, TF2-167, p. 32.

<sup>1402</sup> Transcript of 8 March 2005, TF2-167, pp. 33, 37.

<sup>1403</sup> Transcript of 8 March 2005, TF2-167, p. 33, 37.

TF2-168 saw the Kamajors approaching with his wife. A Kamajor Commander named Kakpata asked TF2-168's wife to give him some money which she had wrapped around her waist. TF2-168's wife said that the money was something that she was afraid to lose and gave the Kamajors the money which was 1,600,000 leones.<sup>1404</sup> Afterwards, Kakpata said to other Kamajors: "Don't you want to shoot at the woman?" The Kamajors shot TF2-168's wife and she fell down slowly.<sup>1405</sup> A six-year old child was present when TF2-168's wife was shot.<sup>1406</sup>

661. Norman sent a message to Obai through Kenie Spencer that the Kamajors were going via Bradford to Mabang to remove the soldiers there.<sup>1407</sup> When TF2-173 heard this news from Kenie Spencer he decided to flee Bradford. However, Kenie Spencer told Bradford residents that they should not run away; as a result, many of them stayed in town.<sup>1408</sup> When the Kamajors arrived they were dressed in the usual way, some Kamajors were wearing wool some were wearing masks and some had bells hanging on them. The Kamajors were armed with guns and cutlasses. Sanawi was their leader.<sup>1409</sup>

662. The Kamajors arrested TF2-173, his friends and other people and held them at gunpoint.<sup>1410</sup> TF2-173 was lying on the ground. When he tried to raise his head he was shot in his right arm. The Kamajors had gone wild and were firing indiscriminately. Kamajors chased TF2-173 and two other people and called out for him; TF2-173 and the others ran and hid in the bush.<sup>1411</sup>

#### 2.9.6.7. Capture and Murder of One Civilian near Makabi Loko in June 1998

663. One day in June 1998 at about 4:00am,<sup>1412</sup> the Vondos<sup>1413</sup> came to Makabi Loko from various villages.<sup>1414</sup> They started firing indiscriminately in the village and TF2-170 ran away. No bullets hit him but TF2-170 fell down and was captured.<sup>1415</sup> A member of the CDF hit TF2-170 in

<sup>1404</sup> Transcript of 3 March 2005, TF2-168, pp. 61- 63.

<sup>1405</sup> Transcript of 3 March 2005, TF2-168, pp. 64- 65; Transcript of 4 March 2005, TF2-173, p. 62.

<sup>1406</sup> Transcript of 3 March 2005, TF2-168, pp. 65-66.

<sup>1407</sup> Transcript of 4 March 2005, TF2-173, p. 55.

<sup>1408</sup> Transcript of 4 March 2005, TF2-173, p. 56.

<sup>1409</sup> Transcript of 4 March 2005, TF2-173, p. 56.

<sup>1410</sup> Transcript of 4 March 2005, TF2-173, p. 58.

<sup>1411</sup> Transcript of 4 March 2005, TF2-173, pp. 63- 64.

<sup>1412</sup> Transcript of 7 March 2005, TF2-170, p. 84.

<sup>1413</sup> "Vondos" are the name of the traditional hunters in Moyamba District.

<sup>1414</sup> Transcript of 7 March 2005, TF2-170, p. 51, pp.57-58.

<sup>1415</sup> Transcript of 7 March 2005, TF2-170, p. 57; Transcript of 7 March 2005, TF2-170, pp. 56-57.

the back with his gun. They took him to their Patrol Commander Kakpata.<sup>1416</sup> TF2-170 discovered that four of his relatives were also captives:<sup>1417</sup> Pa Jibo, Pa Serry Bangura, Pa Santigie Salami and Aluseini Kabbah.<sup>1418</sup> Kakpata said that Aluseini Kabbah had been captured for the second time and that he had failed to show the Vondos where the Gbethis were despite a promise to do so. For this reason, Kakpata stated he would kill Aluseini Kabbah and leave him there.<sup>1419</sup>

664. One of the CDF took a long sharp knife and cut Aluseini Kabbah's head. Blood oozed from his mouth.<sup>1420</sup> Some of the CDF reported the incident to Kakpata.<sup>1421</sup> Kakpata took a gun from Amadou Lavalie, cocked it and shot Aluseini Kabbah twice. Aluseini Kabbah fell over.<sup>1422</sup>

665. The three remaining captives were taken to Losint Loko Village to guard looted items that had been stored there. The CDF told TF2-170 that they would kill him in Bradford. They took him to Makabi Loko. There they met there other civilians who had five jerry cans of oil. These civilians were captured and were taken with TF2-170's group to Makabi Loko. TF2-170 was made to carry load from Bradford but was eventually released by Kakpata because he was a civilian.<sup>1423</sup>

#### 2.9.7. Murders in Kongonani

666. In February or March 1999, a report of two murders that occurred in Kongonani,<sup>1424</sup> was made to TF2-073 in Sembehun.<sup>1425</sup> Three traders were captured by eight Kamajors. One of them escaped; the other two were shot.<sup>1426</sup> On the day he received this report, TF2-073 attended a meeting of Kamajors called by the local chief to investigate the killings.<sup>1427</sup> Eight Kamajors suspected of having committed the killings confessed. One was Tiby Bangura, the other John Aruna. TF2-073 informed the District Officer of these killings; the matter was then referred to the Criminal

<sup>1416</sup> Transcript of 7 March 2005, TF2-170, p. 59.

<sup>1417</sup> Transcript of 7 March 2005, TF2-170, p. 60.

<sup>1418</sup> Transcript of 7 March 2005, TF2-170, pp. 70-71.

<sup>1419</sup> Transcript of 7 March 2005, TF2-170, pp. 60-61.

<sup>1420</sup> Transcript of 7 March 2005, TF2-170, p. 62-63.

<sup>1421</sup> Transcript of 7 March 2005, TF2-170, p. 63.

<sup>1422</sup> Transcript of 7 March 2005, TF2-170, p. 65.

<sup>1423</sup> Transcript of 7 March 2005, TF2-170, pp. 66-67.

<sup>1424</sup> Kongonani is about 1 mile from Sembehun: Transcript of 2 March 2005, TF2-073, p. 47.

<sup>1425</sup> Transcript of 2 March 2005, TF2-073, p. 46.

<sup>1426</sup> Transcript of 2 March 2005, TF2-073, p. 48.

<sup>1427</sup> Transcript of 2 March 2005, TF2-073, p. 48.

Investigation Division of the Sierra Leone Police.<sup>1428</sup> The eight Kamajors were taken to Tihun. Kondewa was in Tihun at this time.<sup>1429</sup> The Kamajors were detained for about a month by the police.<sup>1430</sup>

## 2.10. Child Soldiers

### 2.10.1. Testimony of Child Soldiers

#### 2.10.1.1. Witness TF2-140

667. TF2-140 was born on 19 January 1983.<sup>1431</sup> He was abducted by the RUF in 1996. At this time, TF2-140 was 13 years old. He was forced to fight with the RUF until he was captured by the CDF in Koidu in 1997.<sup>1432</sup> The Kamajors held TF2-140 and five others in a cage made of palm fronds.<sup>1433</sup> Eventually, a Kamajor named Sandi promised to free TF2-140 if he agreed to help the Kamajors.<sup>1434</sup> TF2-140 feared for his life and felt that he had no option but to comply. He led the Kamajors to various hidden stores of ammunition and helped them to capture certain strategic points.<sup>1435</sup> TF2-140 spent a month assisting the Kamajors in this way.<sup>1436</sup> At this time, TF2-140 was 14 years old.<sup>1437</sup>

668. In August or September 1997, TF2-140 was taken to Pujehun District and was initiated into Kamajor society.<sup>1438</sup> Some of those initiated with him were adults and others were children of 10 or 11 years.<sup>1439</sup> Initiation fees were paid to the district initiator, Mualemu Sherrif, who sent the fees to Kondewa, the Kamajor High Priest.<sup>1440</sup>

<sup>1428</sup> Transcript of 2 March 2005, TF2-073, p. 49.

<sup>1429</sup> Transcript of 3 March 2005, TF2-073, p. 39.

<sup>1430</sup> Transcript of 3 March 2005, TF2-073, p. 41.

<sup>1431</sup> Transcript of 14 September 2004, TF2-140, pp. 67, 141 and 148.

<sup>1432</sup> Transcript of 14 September 2004, TF2-140, pp. 69-70.

<sup>1433</sup> Transcript of 14 September 2004, TF2-140, pp. 69-71.

<sup>1434</sup> Transcript of 14 September 2004, TF2-140, p. 72.

<sup>1435</sup> Transcript of 14 September 2004, TF2-140, p. 72.

<sup>1436</sup> Transcript of 14 September 2004, TF2-140, p. 132.

<sup>1437</sup> Transcript of 14 September 2004, TF2-140, p. 71.

<sup>1438</sup> Transcript of 14 September 2004, TF2-140, pp. 74 and 160-161.

<sup>1439</sup> Transcript of 14 September 2004, TF2-140, pp. 74-75.

<sup>1440</sup> Transcript of 14 September 2004, TF2-140, pp. 75-77.

669. From Pujehun, TF2-140 travelled with Sandi to Mano Junction. On the way they encountered fighting at Kenema; TF2-140 was armed and he participated in the fighting.<sup>1441</sup>
670. After reaching Mano Junction, TF2-140 was re-initiated along with 28 other boys.<sup>1442</sup> By this time, TF2-140 was 15 years of age.<sup>1443</sup> Some of the boys who took part in this initiation were the same age as TF2-140 and others were as young as 10 or 11 years.<sup>1444</sup> It was widely believed that little boys were more effectively immunized because they had not had any time with women.<sup>1445</sup>
671. In February 1998, TF2-140 passed through Blama and Koribondo.<sup>1446</sup> An attack took place in Koribondo shortly before TF2-140 arrived there.<sup>1447</sup> As TF2-140 passed through the town he saw Joe Tamidey, a Kamajor commander, who was being guarded by four small boys. TF2-140 estimated that these boys were younger than he was.<sup>1448</sup>
672. From Koribondo, TF2-140 made his way to Pujehun and then Bo.<sup>1449</sup> In Bo, TF2-140 stayed in a compound adjacent to Fofana's Mahei Boima Road residence.<sup>1450</sup> TF2-140 gradually became involved with the Kamajors in Fofana's compound and acted as part of the security team for the house and its occupants. While there, he met Fofana and Norman.<sup>1451</sup>
673. Some time after Christmas in 1998, TF2-140 went with Norman to Freetown.<sup>1452</sup> TF2-140 began to visit the Kamajor base at Brookfields Hotel regularly.<sup>1453</sup> At Brookfields, there were boys younger than TF2-140.<sup>1454</sup> Throughout 1999, child soldiers continued to gather at Brookfields.<sup>1455</sup>

<sup>1441</sup> Transcript of 14 September 2004, TF2-140, pp. 76-77.

<sup>1442</sup> Transcript of 14 September 2004, TF2-140, pp. 78-79.

<sup>1443</sup> Transcript of 14 September 2004, TF2-140, p. 79.

<sup>1444</sup> Transcript of 14 September 2004, TF2-140, pp. 77-78.

<sup>1445</sup> Transcript of 14 September 2004, TF2-140, p. 78.

<sup>1446</sup> Transcript of 14 September 2004, TF2-140, pp. 80 and 135.

<sup>1447</sup> Transcript of 14 September 2004, TF2-140, pp. 80 and 134. This attack has been described in greater detail in section V.2.4.4.

<sup>1448</sup> Transcript of 14 September 2004, TF2-140, p. 86.

<sup>1449</sup> Transcript of 14 September 2004, TF2-140, p. 86.

<sup>1450</sup> Transcript of 14 September 2004, TF2-140, pp. 86-87.

<sup>1451</sup> Transcript of 14 September 2004, TF2-140, pp. 88-89.

<sup>1452</sup> Transcript of 14 September 2004, TF2-140, p. 90.

<sup>1453</sup> Transcript of 14 September 2004, TF2-140, p. 97.

<sup>1454</sup> Transcript of 14 September 2004, TF2-140, p. 97.

<sup>1455</sup> Exhibit 100, confidential, para. 35.

TF2-140, along with other small boys, was involved in various attacks that were planned from Brookfields, including attacks on Makoro and Mile 38.<sup>1456</sup>

#### 2.10.1.2. Witness TF2-021

674. TF2-021 was born in 1986.<sup>1457</sup> He was abducted by rebels in 1995, along with other young boys from his village in Kailahun District.<sup>1458</sup> At the time of his abduction, TF2-021 was approximately nine years old. TF2-021 remained with the rebels until 1997, when he was captured by Kamajors in Ngiehun, Kailahun District.<sup>1459</sup> Seven other little boys and three women were captured at the same time.<sup>1460</sup> One of the captured boys was 15; the rest were all younger.<sup>1461</sup> The name of the Kamajor that captured TF2-021 is German (a.k.a. Jahman).<sup>1462</sup>

675. After the attack on Ngiehun, Kamajors made the boys carry looted property.<sup>1463</sup> TF2-021 was then taken to Base Zero for initiation.<sup>1464</sup> At Base Zero TF2-021 saw many other young boys who had already been initiated.<sup>1465</sup> About 20 other young boys were initiated at the same time as TF2-021. They were initiated by Kondewa.<sup>1466</sup> As part of the initiation process, the boys were told that they would be made powerful for fighting and were given a potion to rub on their bodies before going into battle.<sup>1467</sup>

676. TF2-021 stayed at Base Zero for some time after his initiation.<sup>1468</sup> German gave TF2-021 a gun and taught him how to shoot.<sup>1469</sup> After this training, TF2-021 started going on missions; his first mission was to Masiaka, where he and other young boys engaged in combat with the rebels.<sup>1470</sup> In the course of this fighting, TF2-021 shot an unarmed woman in the stomach. She fell, and TF2-

<sup>1456</sup> Transcript of 14 September 2004, TF2-140, pp. 97 and 99.

<sup>1457</sup> Transcript of 2 November 2004, TF2-021, pp. 28 and 31-32.

<sup>1458</sup> Transcript of 2 November 2004, TF2-021, pp. 29 and 130.

<sup>1459</sup> Transcript of 3 November 2004, TF2-021, p. 48.

<sup>1460</sup> Transcript of 2 November 2004, TF2-021, pp. 32-33 and 35.

<sup>1461</sup> Transcript of 2 November 2004, TF2-021, p. 33.

<sup>1462</sup> Transcript of 3 November 2004, TF2-021, p. 8.

<sup>1463</sup> Transcript of 2 November 2004, TF2-021, pp. 33-35.

<sup>1464</sup> Transcript of 2 November 2004, TF2-021, p. 37.

<sup>1465</sup> Transcript of 2 November 2004, TF2-021, pp. 37-38.

<sup>1466</sup> Transcript of 2 November 2004, TF2-021, p. 38, lines 26-29; p. 39, lines 22-25 and p. 42, lines 20-23. This initiation is covered in greater detail in section V.2.2.8, para. 317.

<sup>1467</sup> Transcript of 2 November 2004, TF2-021, pp. 41-42.

<sup>1468</sup> Transcript of 2 November 2004, TF2-021, p. 43.

<sup>1469</sup> Transcript of 2 November 2004, TF2-021, pp. 43-44 and 84.

<sup>1470</sup> Transcript of 2 November 2004, TF2-021, pp. 44 and 83.

021 left her on the ground.<sup>1471</sup> After the shooting subsided, TF2-021 and other Kamajors looted tapes, bicycles and clothing.<sup>1472</sup> They also captured women and brought them back to Base Zero.<sup>1473</sup>

677. At Base Zero, TF2-021 saw Norman arrive in a helicopter and deliver arms and ammunitions.<sup>1474</sup> TF2-021 also witnessed Norman deliver arms to the Kamajor base at Gendema.<sup>1475</sup> These arms were used in combat at Kenema and Joru.<sup>1476</sup>

678. In addition to the fighting at Masiaka, TF2-021 participated actively in the February 1998 attacks on SS Camp and Kenema.<sup>1477</sup> On Sunday, 15 February 1998, TF2-021 was part of a group of three Kamajors that searched Kenema police barracks and killed some police that were found there.<sup>1478</sup> TF2-021 also fought in Joru and Daru.<sup>1479</sup> Other boys of TF2-021's age also participated in these attacks.<sup>1480</sup>

679. In 1996, when TF2-021 was 12 years old, he was involved in screening people at checkpoints in Kenema and Joru to ensure they had Kamajor passes.<sup>1481</sup>

680. In early January 1999, Norman convened a meeting in Bo which was attended by CO Ngobeh, TF2-021's commander. After this meeting, CO Ngobeh told TF2-021 that they would participate in 6 January 1999 invasion of Freetown.<sup>1482</sup> TF2-021 and 3 other young boys went to Freetown by helicopter with their commanders.<sup>1483</sup> The boys were given guns and taken to Congo Cross, where there was heavy firing between the rebels and ECOMOG. The children started fighting against the rebels.<sup>1484</sup> After the rebels were driven away, TF2-021 went to Brookfields Hotel and set up a checkpoint.<sup>1485</sup>

<sup>1471</sup> Transcript of 2 November 2004, TF2-021, p. 45.

<sup>1472</sup> Transcript of 2 November 2004, TF2-021, pp. 45-46.

<sup>1473</sup> Transcript of 2 November 2004, TF2-021, p. 47.

<sup>1474</sup> Transcript of 2 November 2004, TF2-021, p. 61.

<sup>1475</sup> Transcript of 2 November 2004, TF2-021, p. 64.

<sup>1476</sup> Transcript of 2 November 2004, TF2-021, p. 61.

<sup>1477</sup> Transcript of 2 November 2004, TF2-021, pp. 65-66 and 68.

<sup>1478</sup> Transcript of 2 November 2004, TF2-021, pp. 68 and 70.

<sup>1479</sup> Transcript of 2 November 2004, TF2-021, pp. 82-84.

<sup>1480</sup> Transcript of 2 November 2004, TF2-021, p. 66.

<sup>1481</sup> Transcript of 2 November 2004, TF2-021, p. 83, see also Exhibit 18, confidential.

<sup>1482</sup> Transcript of 2 November 2004, TF2-021, pp. 85 and 87; The Chamber is of the view that CO Gobey and CO Ngobeh is the same person.

<sup>1483</sup> Transcript of 2 November 2004, TF2-021, pp. 85-86.

<sup>1484</sup> Transcript of 2 November 2004, TF2-021, pp. 85-86; Transcript of 4 November 2004, TF2-021, p. 27.

<sup>1485</sup> Transcript of 2 November 2004, TF2-021, p. 86.

681. When TF2-021 fought with the Kamajors he took marijuana. He was also supposed to take brown-brown, which was a form of cocaine.<sup>1486</sup> Kondewa's boys gave them drugs at Base Zero.<sup>1487</sup>

682. In 1999, TF2-021 was initiated into the Avondo Society, a group of Kamajors led by Kondewa.<sup>1488</sup> After the initiation TF2-021 received a certificate bearing his photograph, to prove that he was one of Kondewa's Kamajors.<sup>1489</sup> TF2-021 was thirteen years old at this time.<sup>1490</sup>

#### 2.10.1.3. Witness TF2-004

683. TF2-004 testified that he was 20 years old at the time he testified and that he turned 20 in the year 2004.<sup>1491</sup> The Chamber therefore finds that he was born between 1 January 1984 and 9 November 1984.<sup>1492</sup> He was abducted by the rebels from Fyndah, his village in Pujehun District.<sup>1493</sup> The rebels took TF2-004 to Maka. Kamajors attacked Maka and captured TF2-004 and five other boys who ranged in age from 10 to 16.<sup>1494</sup> The boys were taken from Maka to Liya, Kpaka Chiefdom, Pujehun District.<sup>1495</sup>

684. From Liya, TF2-004 was taken to Telu-Bongor. The rebels attacked the Kamajors there. TF2-004 was armed with a machete and participated in the fighting.<sup>1496</sup>

685. After the fighting at Telu-Bongor, TF2-004 returned to Liya where he was initiated by Muniro Sherrif.<sup>1497</sup> Many others were initiated at the same time, including children as young as 10 years old.<sup>1498</sup> The purpose of the initiation was to fight the war.<sup>1499</sup>

686. On the same day that he was initiated, TF2-004 left Liya to go fight in Zimmi.<sup>1500</sup> TF2-004 witnessed his commander, CO Small, kill an unarmed male collaborator who had warned the

<sup>1486</sup> Transcript of 3 November 2004, TF2-021, p. 50-53.

<sup>1487</sup> Transcript of 4 November 2004, TF2-021, p. 36.

<sup>1488</sup> Transcript of 2 November 2004, TF2-021, pp. 87-89 and 91; Transcript of 3 November 2004, TF2-021, p. 20, Exhibit 100, para. 54.

<sup>1489</sup> Transcript of 2 November 2004, TF2-021, pp. 91-94, and Exhibit 18, confidential.

<sup>1490</sup> Transcript of 2 November 2004, TF2-021, pp. 91-94, and Exhibit 18, confidential.

<sup>1491</sup> Transcript of 9 November 2004, TF2-004, p. 61, pp. 85-86.

<sup>1492</sup> Transcript of 9 November 2004, TF2-004, pp. 60-64, *ibid.*, pp. 85-87.

<sup>1493</sup> Transcript of 9 November 2004, TF2-004, pp. 60-64.

<sup>1494</sup> Transcript of 9 November 2004, TF2-004, pp. 64-66.

<sup>1495</sup> Transcript of 9 November 2004, TF2-004, pp. 68-69.

<sup>1496</sup> Transcript of 9 November 2004, TF2-004, pp. 73-75.

<sup>1497</sup> Transcript of 9 November 2004, TF2-004, pp. 75-77.

<sup>1498</sup> Transcript of 9 November 2004, TF2-004, pp. 75-77.

<sup>1499</sup> Transcript of 9 November 2004, TF2-004, pp. 75-77.

rebels that the Kamajors were approaching Zimmi.<sup>1501</sup> The Kamajors won the battle at Zimmi and then burnt the houses. TF2-004 was actively involved in the fighting at Zimmi.<sup>1502</sup> After this battle, TF2-004 returned to Liya with the Kamajors.<sup>1503</sup>

687. TF2-004 was also involved in other battles with Kamajors.<sup>1504</sup> He does not know how long he remained with them.<sup>1505</sup>

#### 2.10.2. The Use of Child Soldiers Throughout Sierra Leone

688. In addition to the evidence set out above, there is further evidence that during the time period relevant to the Indictment, children who appeared to be aged less than 15 were conscripted, enlisted, or used to participate actively in hostilities in the following locations: Kenema;<sup>1506</sup> Base Zero;<sup>1507</sup> Bo;<sup>1508</sup> Daru;<sup>1509</sup> Masiaka;<sup>1510</sup> Port Loko;<sup>1511</sup> Yele;<sup>1512</sup> and Ngiehun.<sup>1513</sup>

- (a) Initiators, including Kondewa, used child soldiers as body guards at Base Zero.<sup>1514</sup>
- (b) There was a Kamajor named "Junior Spain" at Base Zero who was around 12 -15 years of age.<sup>1515</sup>
- (c) In Ngiehun, Kamabote ordered a child soldier named Small Hunter, who was about 12 years old, to shoot TF2-035. There is still one bullet in TF2-035's body.<sup>1516</sup>

The Chamber accepts the testimony of TF2-079 that the name "Small Hunter" was

<sup>1500</sup> Transcript of 9 November 2004, TF2-004, pp. 77-82.

<sup>1501</sup> Transcript of 9 November 2004, TF2-004, pp. 77-82.

<sup>1502</sup> Transcript of 9 November 2004, TF2-004, p. 82.

<sup>1503</sup> Transcript of 9 November 2004, TF2-004, p. 83.

<sup>1504</sup> Transcript of 9 November 2004, TF2-004, p. 83.

<sup>1505</sup> Transcript of 9 November 2004, TF2-004, p. 83.

<sup>1506</sup> Transcript of 15 February 2005, TF2-005, p. 110, (CS); Transcript of 5 November 2004, TF2-201, pp. 62-63.

<sup>1507</sup> Transcript of 8 June 2005, TF2-011, pp. 23-24, (CS); Transcript of 27 May 2005, TF2-079, pp. 12-15; Transcript of 8 June 2005, TF2-011, pp. 23-24 (CS); Transcript of 19 November 2004, TF2-017, pp. 89-91; Transcript of 27 May 2005, TF2-079, pp. 12-15; Transcript of 5 November 2004, TF2-201, pp. 62-63; Transcript of 7 June 2005.

<sup>1508</sup> Transcript of 5 November 2004, TF2-201, p. 62-63.

<sup>1509</sup> Transcript of 7 June 2005, TF2-218, p.16 (CS); Transcript of 7 June 2005, TF2-218, pp. 11-15 (CS). Boys as young as 7 years danced in front of the CDF as they went into battle. This practice was not limited to Daru: Exhibit 100, confidential, para. 51.

<sup>1510</sup> Exhibit 116, p. 9.

<sup>1511</sup> Exhibit 116B, pp. 9-10.

<sup>1512</sup> Exhibit 116B, p. 9.

<sup>1513</sup> Transcript of 14 February 2005, TF2-035, pp. 24-26, see also *ibid.* pp. 56-59.

<sup>1514</sup> Transcript of 27 May 2005, TF2-079, pp. 12-13.

<sup>1515</sup> Transcript of 11 March 2005, TF2-014, pp. 15-16.

<sup>1516</sup> Transcript of 14 February 2005, TF2-035, pp. 24-27, see also *ibid.* p. 56-59. See para. 388 in section on Tongo for further particulars of this incident.

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207.  
*[Signature]*

*[Signature]*

given to all of the child combatants in the CDF, and that children were called by that name instead of their true names.<sup>1517</sup>

- (d) In May 1998, in Daru, children as young as 13 years were present and were armed with knives, cutlasses and guns.<sup>1518</sup> At this time, Daru was an active combat zone.<sup>1519</sup> It was the responsibility of a small boy dressed in Kamajor clothing to carry a stick known as "the commander" and lead the Kamajors into combat.<sup>1520</sup> There is similar evidence that children as young as 7 years danced in front of the Kamajors as they went into battle.<sup>1521</sup>
- (e) Children were involved in monitoring checkpoints in Daru.<sup>1522</sup>
- (f) According to Colonel Abu Bakar, elders liked to use children in combat because they are obedient.<sup>1523</sup>
- (g) In July 1998, a small proportion of the 4000 registered Kapras in Massingbi were children under the age of 15.<sup>1524</sup>
- (h) By mid-August 1998, between 315 and 350 children under the age of 15 had been registered in a demobilization and reintegration program in Bo.<sup>1525</sup>
- (i) In 1999, the CDF registered over 300 children aged less than 14 in a disarmament, demobilization and reintegration program in the Southern Province.<sup>1526</sup>

### 2.10.3. Norman's address at a Meeting at Base Zero

689. In January 1998, Norman spoke at a meeting at Base Zero. He complained that the child combatants were outperforming the adult fighters. Children were present at this meeting.<sup>1527</sup>

<sup>1517</sup> Transcript of 27 May 2005, TF2-079, p. 11.

<sup>1518</sup> Transcript of 7 June 2005, TF2-218, pp. 16-17; Transcript of 7 June 2005, TF2-218, pp. 11-15 (CS).

<sup>1519</sup> Transcript of 7 June 2005, TF2-218, p. 16-17 (CS) and Transcript of 7 June 2005, TF2-218, p. 11-15 (CS).

<sup>1520</sup> Transcript of 7 June 2005, TF2-218, p. 16-17 (CS); The use of armed children to at CDF checkpoints was not limited to Daru: Exhibit 100, confidential, para. 50.

<sup>1521</sup> Transcript of 16 June 2005, TF2-EW2, p. 15-19.

<sup>1522</sup> Transcript of 7 June 2005, TF2-218, pp. 32-33 (CS).

<sup>1523</sup> Transcript of 7 June 2005, TF2-218, pp. 32-33 (CS).

<sup>1524</sup> Transcript of 7 June 2005, TF2-218, pp. 20-22 (CS).

<sup>1525</sup> Transcript of 7 June 2005, TF2-218, pp. 24-25 (CS).

<sup>1526</sup> Exhibit 100, confidential, paras 29-30.

<sup>1527</sup> Transcript of 19 November 2004, TF2-017, pp. 89-91 (CS).





### 3. Legal Findings

#### 3.1. Findings on the General Requirements for Crimes Against Humanity, War Crimes and Other Serious Violations of International Humanitarian Law

#### 3.2. Findings on the General Requirements for Crimes Against Humanity, War Crimes and Other Serious Violations of International Humanitarian Law

##### 3.2.1. Article 2: Crimes Against Humanity

690. As stated in the section on Applicable Law, the general requirements that must be established to prove a Crime against Humanity are as follows:

1. There must be an attack;
2. The attack must be widespread or systematic;
3. The attack must be directed against any civilian population;
4. The acts of the Accused must be part of the attack; and
5. The Accused knew or had reason to know that his acts constitute part of a widespread or systematic attack directed against any civilian population.

691. The Chamber finds that the following events constitute part of a widespread attack:

1. The attacks by Kamajors on Tongo in late November/ early December 1997; in early January 1998; and on 14 January 1998;
2. The attack by Kamajors on Koribondo between 13 and 15 February 1998;
3. The attack of Kamajors on Bo Town between 15 and 23 February 1998;
4. The attack by Kamajors on Bonthe on 15 February 1998; and
5. The attack by Kamajors on Kenema between 15 and 18 of February 1998;

692. In the light of the broad geographical area over which these attacks occurred, the Chamber is satisfied that the requirement of a widespread attack has been established in this case. Since the requirement that an attack be widespread or systematic is disjunctive, the Chamber does not need to consider whether the attack was also systematic.

693. The Chamber finds, however, that the evidence adduced does not prove beyond reasonable doubt that the civilian population was the primary object of the attack. By contrast,

there is evidence that these attacks were directed against the rebels or juntas that controlled towns, villages, and communities throughout Sierra Leone.<sup>1528</sup> In this regard the Chamber recalls the admission of the Prosecutor that “the CDF and the Kamajors fought for the restoration of democracy”.<sup>1529</sup>

694. Having thus found that the essential requirement of an attack against the civilian population has not been satisfied beyond reasonable doubt, the Chamber finds that the Fofana and the Kondewa are not guilty of Crimes against Humanity as charged in Count 1 (Murder as a Crime against Humanity) and Count 3 (Other Inhumane Acts as a Crime against Humanity).

### 3.2.2. Article 3: War Crimes

695. As stated in the section on Applicable Law, the general requirements that must be established to prove a War Crime are as follows:

1. An armed conflict existed at the time of the alleged violation of Common Article 3 or Additional Protocol II;
2. There existed a nexus between the alleged violation and the armed conflict;
3. The victim was a person not taking direct part in the hostilities at the time of the alleged violation; and
4. The accused knew or had reason to know that the person was not taking a direct part in the hostilities at the time of the act or omission.

696. As regards the first requirement the Chamber recalls that it has taken judicial notice of the fact that the “armed conflict in Sierra Leone occurred from March 1991 until January 2002.”<sup>1530</sup>

<sup>1528</sup> Transcript of 26 January 2006, Sam Hinga Norman, pp. 2-5; Transcript of 30 January 2006, Sam Hinga Norman, pp. 21-22; Transcript of 3 February 2006, Sam Hinga Norman, p. 55; Transcript of 6 February 2006, Sam Hinga Norman, pp. 83-85; Transcript of 13 February 2006, Albert Joe Demby, pp. 42-43 and 49.

<sup>1529</sup> Statement of Mr. Desmond De Silva, “Prosecutor”: Transcript of 8 May 2006, pp. 2-3; Transcript of 9 February 2006, Peter Penfold, p. 8, 13-14 and 46-47; Transcript of 13 February 2006, Albert Joe Demby, pp. 55-56, 65-66; Transcript of 6 February 2006, Sam Hinga Norman, pp. 17, 23-24, 54, 80 and 93; Transcript of 16 February 2005, TF2-005, pp. 67-69; Transcript of 17 November 2004, TF2-008, pp. 31-34; Transcript of 11 November 2004, TF2-071, pp. 110-112.

<sup>1530</sup> *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-PT, Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence (TC), 2 June 2004, Annex I, Fact A [Decision on Judicial Notice]. This finding was upheld on appeal in *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-AR73, Fofana - Decision on Appeal Against





697. With respect to the other general requirements for war crimes, where findings have been made of murder (Count 2), cruel treatment (Count 4), pillage (Count 5), acts of terrorism (Count 6) or collective punishments (Count 7) as war crimes, the Chamber is satisfied that the perpetrators were aware of the protected status of the victims who were either civilians (a category which includes “collaborators”<sup>1531</sup> and police officers) or captured enemy combatants. Similarly, where such findings have been made the Chamber is satisfied that the alleged crimes were closely related to the armed conflict.

### 3.2.3. Article 4: Other Serious Violations of International Humanitarian Law

698. As stated in the section on Applicable Law, the general requirements that must be established to prove an “Other Serious Violation of International Humanitarian Law” are as follows:

1. An armed conflict existed at the time of the alleged offence; and
2. There existed a nexus between the alleged offence and the armed conflict.

699. Again, the Chamber recalls that it has taken judicial notice of the fact that an armed conflict existed in all parts of the Republic of Sierra Leone throughout the period relevant to the Indictment.<sup>1532</sup>

700. Where findings have been made on the enlistment or use of children under the age of 15 to participate actively in the hostilities (Count 8), the Chamber finds that the alleged crimes were closely related to the armed conflict.

### 3.3. Responsibility

701. The Indictment alleges that Fofana and Kondewa, by their acts or omissions, are individually criminally responsible pursuant to Article 6(1) of the Statute for the crimes charged under Counts 1 through 8 of the Indictment, which they are said to have planned, instigated,

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“Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence” (AC), 16 May 2005, paras 34-40 [Appeal Decision on Judicial Notice].

<sup>1531</sup> The Chamber accepts the Prosecution’s definition of “collaborators” as “[c]ivilians, including women and children, who were suspected to have supported, sympathized with, or simply failed to actively resist the combined RUF/AFRC forces.” See Indictment, para. 23.

<sup>1532</sup> See Decision on Judicial Notice and Appeal Decision on Judicial Notice.

ordered, committed, or in which planning, preparation or execution they have aided and abetted.<sup>1533</sup>

702. Fofana and Kondewa are further alleged to have committed these crimes through participation in the first, or alternatively, the third category of a joint criminal enterprise, acting individually and in concert with Norman and subordinate members of the CDF. The Prosecution alleges that the JCE involved the use of “any means necessary” to defeat and completely eliminate the RUF/AFRC forces, their supporters, sympathisers, and anyone who did not actively resist their occupation of Sierra Leone, as well as gaining and exercising control over the territory of Sierra Leone and its population.<sup>1534</sup>

703. In addition, or alternatively, the Indictment alleges that Fofana and Kondewa are individually criminally responsible pursuant to Article 6(3) of the Statute for the crimes charged under Counts 1 through 8 of the Indictment, which are said, to have been committed by their subordinates.<sup>1535</sup>

704. On the basis of the factual findings made by the Chamber in section V.2. “Factual Findings” of this Judgement, we now proceed to determine whether the allegations against Fofana and Kondewa as set out in the Indictment have been proved beyond reasonable doubt.

### 3.3.1. President Kabbah’s Role in the Conflict

705. As has been briefly mentioned in the introduction of this Judgement, persistent references and allusions were made by the Defence Team in the course of the proceedings that have preceded this Judgement, to President Kabbah and his alleged involvement in the conflict on the side of the CDF.

706. In this regard, and again as well mentioned in passing in the introduction of this Judgement, the Chamber recalls that the three Accused Persons all along in the course of these proceedings, raised a veiled Defence that all they did and stand charged for was as a result of their struggle to restore to power, President Kabbah’s democratically elected government that had been

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<sup>1533</sup> Indictment, para. 20.

<sup>1534</sup> Indictment, para. 19.

<sup>1535</sup> Indictment, para. 21.

ousted in a *coup d'Etat* by the Armed Forces Revolutionary Council (AFRC) on the 25<sup>th</sup> of May 1997.

707. In view of the fact that the exigencies of justice require that a defence whether directly or indirectly raised by an accused in a criminal matter needs to be examined, we will proceed to determine, whether the President's alleged role, viewed in the light of his political status and that of his government-in-exile, constitutes a legal defence that is available to the Accused Persons.

708. In the light of the evidence adduced We have no doubt in Our minds that President Kabbah occupied and played a central role in this conflict because it was his overthrown Government that was waiting in the wings to be restored after the bitter wrangling and struggle that preceded it and continued after the Kabbah Government was ousted.

709. In February/March 1997, the then Vice President, Albert Joe Demby, organised two meetings to address military dissatisfaction over rice distributions because while senior officers were receiving only one bag for every two officers. A plan to reduce the rice rations provoked discontent and unrest in the Army.<sup>1536</sup>

710. In a meeting between President Kabbah, the vice President Demby and the Army Officers, the late Accused Norman accused two army officials, Hassan Conteh and Col Marx Kanga of planning a coup; an accusation which they denied.<sup>1537</sup>

711. Peter Penfold the British High Commissioner to Sierra Leone, the American Ambassador John Hirsh and the UN Special Representative, Ambassador Berhanu Dinka, in a meeting with President Kabbah, warned him of a possible *coup* against his government. He told them that he had already heard about that coup and that he would be talking to the Military.<sup>1538</sup>

712. Meantime, late Norman, on April 1997, had seen President Kabbah and handed over to him the strategic keys, a bag with working parts of dangerous weapons for safe keeping.

713. Like the Ambassadors who preceded him, Norman told President Kabbah that there was an imminent plot to overthrow him but that the *coup d'Etat* may not be deadly or destructive

<sup>1536</sup> Transcript of 8 February 2006, Peter Penfold, pp. 7-9.

<sup>1537</sup> Transcript of 10 February 2006, Albert Joe Demby, pp. 22-23; Transcript of 24 January 2006, Samuel Hinga Norman, pp. 80-83.

<sup>1538</sup> Transcript of 8 February 2006, Peter Penfold, pp. 9-13.





without those parts of the weapons. On the 5<sup>th</sup> of May 1997, President Kabbah told Norman that he returned the contents of the bag to the Chief of Defence Staff and the Army Chief, late Brigadier Hassan Conteh and late Max Kanga. Norman then told President Kabbah that the *coup d'Etat* against his government could not be averted.

714. After the *coup d'Etat* of the 25<sup>th</sup> of May 1997, President Kabbah went into exile in Guinea. His government-in-exile was still recognised and from Conakry he encouraged late Norman and his Kamajor collaborators like the Accused, Moinina Fofana and Allieu Kondewa and other CDF personnel who were engaged in this struggle to restore him to power.

715. He bought a satellite phone for Norman's use to report to him regularly on the progress of the war. He continued to provide logistics support to the Kamajors and their leaders. Samuel Hinga Norman, Moinina Fofana and Allieu Kondewa who were involved in the delegation from Bonthe, went to Freetown to see President Kabbah amongst others to complain about lootings and killings by Kamajors. The President sent 100 bags of rice to the Kamajors in Bonthe Town.<sup>1539</sup>

716. In view of the international recognition accorded to his Government, President Kabbah made it possible for the Economic Community of West African States through ECOMOG to provide military assistance to the CDF to enable it attain the objective of restoring his ousted Government to power. Indeed ECOMOG fought alongside the CDF Kamajor forces against the combined forces of the RUF and of the AFRC as the war raged inside the country for control of areas occupied by enemy forces.

717. It is also on record that Lady Patricia Kabbah gave the sum of \$10,000US to Hon. Meme Momoh Pujoh to be conveyed to late Norman for use as part of logistical support to the fighters particularly the amphibious Kassilla battalion in Bonthe. She said that she was very proud of them. She even promised them that she was communicating by a letter and that she would give further offers.<sup>1540</sup>

<sup>1539</sup> Transcript of 21 November 2004, TF2-071, pp. 82-83.

<sup>1540</sup> Transcript of 30 January 2006, Samuel Hinga Norman, pp. 10-12.

718. The President's wife, Lady Patricia Kabbah was particularly very concerned about that part of Sierra Leone she came from and she was always asking about Bonthe, about Borhoi, her birth Village.<sup>1541</sup>

719. Defence Witness, Osman Vandj, testified that a meeting which President Kabbah held in Bo, he thanked the Kamajors for dislodging the junta and restoring him as President and that he promised the Kamajors more rice which he later did.<sup>1542</sup>

720. In a second meeting held in Bo and at which prominent dignitaries were in attendance, President Kabbah told the Kamajors he would return and give them all medals. He left two sample medals at the Hall.<sup>1543</sup>

#### 3.4. Towns of Tongo Field

721. The Chamber outlines below, the facts as found in Sections V.2.2 and V.2.3.2 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa:

- (i) Base Zero existed as the headquarters for the CDF High Command from about 15 September 1997 to 10 March 1998. Norman, as the National Coordinator, Fofana, as the National Director of War, and Kondewa, as the High Priest, were the key and essential components of the leadership structure of the organisation. They were the executives of the CDF actually taking the decisions, while nobody else could take a decision in their absence. They were the leaders of the CDF and all the Kamajors looked up to them.
- (ii) Base Zero was a central storage and distribution site for all of the CDF's logistics. Commanders came to Base Zero from every group and location in the country to take instructions from the High Command or Norman and to receive logistics. Reports were being delivered to Base Zero from the frontlines. Thousands of civilians and Kamajors travelled to Base Zero for initiation and military training. Although the CDF was a cohesive force under one central command, there were some fighters who acted on their own without the knowledge of central command. Commanders' authority to discipline their men on the ground was entirely their own.

<sup>1541</sup> Transcript of 30 January 2006, Samuel Hinga Norman, pp. 10-12

<sup>1542</sup> Transcript of 17 February 2006, Osman Vandj, pp. 99-101.

<sup>1543</sup> Transcript of 17 February 2006, Osman Vandj, pp. 99-101.





- (iii) Norman, Fofana, Kondewa, Mohamed Orinco Moosa, Joseph Koroma, Lamin Ngobeh, Albert J Nallo and the battalion commanders made strategic war decisions of determining when and where to go to war.
- (iv) Fofana in his capacity as Director of War at Base Zero planned and executed the war strategies and received frontline reports from the commanders. In executing these functions he was largely assisted by Albert J Nallo and on occasion Fofana passed on his responsibilities to Nallo. These war strategies did not include the commission of criminal acts, such as killing of civilians or looting.
- (v) Fofana selected commanders to go to battle and could, on occasion, issue direct orders to these commanders. For example, he issued the order to Joe Tamidey not to release captured vehicles and other items to any other person until they are registered with the CDF Headquarters. Fofana was responsible for the receipt and provision of ammunitions at Base Zero to the commanders upon the instruction of Norman.
- (vi) Fofana was seen as having power and authority at Base Zero and was the overall boss of the commanders at Base Zero.
- (vii) Kondewa in his capacity as High Priest was in charge of the initiations at Base Zero and was the head of all the CDF initiators in the country. The Kamajors believed in mystical powers of the initiators, especially Kondewa, and that the process of the initiation and immunisation would make them "bullet-proof". The Kamajors looked up to Kondewa and admired the man with such powers. They believed that he was capable of transferring his powers to them to protect them. By virtue of these powers Kondewa had command over the Kamajors in the country. He never went to the war front himself, but whenever a Kamajor was going to war, Kondewa would give his advice and blessings, as well as the medicine which the Kamajors believed would protect them against bullets. No Kamajor would go to war without Kondewa's blessings.
- (viii) Kondewa attended passing out parades at Base Zero, which signified that the Kamajors had passed their training and could present their skills. He, along with Norman and Mbogba, signed a training certificate, which each trainee received after the training.
- (ix) On 16 November 1997 TF2-079 prepared a situation report on events occurring between 19 September and 13 November 1997 in Zone II Operational Frontline which included Lower Bambara and Dodo Chiefdoms. It requested arms and ammunitions and described attacks which had been launched in the area. It also narrated crimes which were committed by Kamajors in that area. The report was endorsed by Musa Junisa, the then Commander-in-chief of Zone II Operational Frontline and Mohamed Orinco Moosa, his deputy. TF2-079, Junisa and Moosa with 100 other Kamajors then travelled to Base Zero. At Base Zero they gave the report first to Fofana and then to Norman. Norman commended

their efforts and told them that a good number of that group should return to the area with another senior commander to keep the area strong and only a few of them should remain at Base Zero to await ammunitions. Seven people, including Moosa and TF2-079 stayed at Base Zero.

- (x) At a passing out parade at Base Zero between 10 and 12 December 1997 Norman gave instructions for the Tongo and Black December operations. Norman said that the attack on Tongo would determine who wins the war. He also said that there was no place to keep captured prisoners like the juntas, let alone their collaborators. He directed the Kamajors that instead of wasting their bullets, to chop off the left hand of any captured junta as a signal to any group that would want to seize power through the barrels of the gun and not the ballot paper. He also told the fighters not to spare the houses of the juntas. After hearing Norman's instructions, Fofana addressed the Kamajors saying that any commander failing to perform accordingly and "losing your own ground", should kill himself and not come to report to Base Zero. Then all the fighters looked at Kondewa, admiring him as a man with a mystic power, and he gave the last comment saying that the time for the surrender of rebels had long been exhausted and that they did not need any surrendered rebels. He then gave his blessings.
- (xi) A subsequent meeting was held by Norman at Base Zero, which was attended by, among others, Fofana, Kondewa, Mohamed Orinco Moosa and some commanders from the Tongo area, such as, Musa Junisa, TF2-079 and Vandi Songo. Norman repeated that whoever took Tongo would win the war and therefore it should be taken "at all costs". He ordered them not to spare anyone working with the juntas or mining for them. He also said that all collaborators should forfeit their properties and be killed. Everyone in the meeting contributed to the discussion, including Fofana and Kondewa. Norman then ordered Fofana to provide logistics for the operation.

### 3.4.1. Responsibility of Fofana

#### 3.4.1.1. Responsibility Pursuant to Article 6(1)

722. Based on the above evidence the Chamber finds that Fofana's speech at the passing out parade in December 1997 when the attack on Tongo was discussed was clearly an encouragement and support of Norman's instructions to kill captured enemy combatants and "collaborators", to inflict physical suffering or injury upon them and to destroy their houses. At this parade Fofana, as Director of War, addressed the fighters immediately after the National Coordinator for the CDF had given his instructions about Tongo. Fofana not only encouraged the Kamajors to follow Norman's unlawful orders to commit criminal acts but also told them that if they failed to perform accordingly, they should not come back to Base Zero to report but to kill themselves rather than





losing their own ground. As found by the Chamber above, those Kamajors who then proceeded to attack Tongo not only received a direction from Norman to commit specific criminal acts, they also had a clear encouragement and support from Fofana, as one of their leaders, to commit such acts.

723. The Chamber is satisfied that Fofana's speech had a substantial effect on the perpetration of those criminal acts. Although this speech was given by Fofana at Base Zero in December 1997, prior to the commission of the criminal acts by Kamajors in Tongo in January 1998, the Chamber finds that the Accused is liable for aiding and abetting even when his conduct occurred before the principal crime had been perpetrated and at a location geographically removed from that of the principal crime.<sup>1544</sup>

724. The Chamber observes that in order to make a finding that Fofana aided and abetted in the commission of the alleged crimes it is irrelevant whether he shared the intent of the perpetrators. Similarly, the Chamber need not examine whether Fofana knew of the precise crime that was intended by the principal perpetrator. However, the Chamber is satisfied that Fofana was aware that one of a number of crimes would probably be committed by the Kamajors and that one of those crimes was in fact committed. The Chamber finds that Fofana knew of Norman's orders that the Kamajors were to kill captured enemy combatants and "collaborators", to inflict physical suffering or injury upon them and to destroy their houses. The Chamber finds that, based on his awareness that the Kamajors who operated in the towns of Tongo Field had previously engaged in criminal conduct, which had been reported to Base Zero,<sup>1545</sup> Fofana knew that it was probable that the Kamajors would commit at least one of these acts in compliance with the instructions issued. With this knowledge and his knowledge of the orders given by Norman, the National Coordinator, Fofana encouraged and supported the Kamajors in their actions, in consequence of which they committed acts of killing and infliction of physical suffering or injury in Tongo, as found by the Chamber above.

<sup>1544</sup> The *actus reus* of aiding and abetting a crime may occur before, during, or after the principal crime has been perpetrated and at a location geographically removed from the location of the principal crime: see Section IV.4.1.6 "Aiding and Abetting".

<sup>1545</sup> See fact in para. 721(ix).

725. The Chamber further finds that Fofana was present and contributed to the discussion at the subsequent commanders' meeting in December 1997 at Base Zero where plans to attack Tongo were discussed. At this meeting Norman further reiterated, clarified and expanded his unlawful orders, which now included looting, to the Kamajor commanders from Tongo. In the absence of any evidence showing how Fofana contributed to the discussion and decision at this meeting the Chamber finds that in the circumstances there is no evidence to prove beyond reasonable doubt that Fofana either planned the commission of this additional crime of looting or that he aided and abetted in the planning, preparation or execution of this additional crime in Tongo.

726. The Chamber notes that Fofana was ordered by Norman to provide logistics to the commanders from Tongo following this meeting. The Chamber observes that no specifications have been provided as to what these logistics consisted of. Although at this stage Fofana knew that the order to attack Tongo included not only instructions to kill, inflict physical suffering or injury or destroy houses, but also to loot, it is not the only reasonable inference that the logistics provided by Fofana were used to commit those specific crimes in Tongo or that such provision of logistics had a substantial effect upon the perpetration of these specific crimes in Tongo. The Chamber finds that this action by Fofana did not constitute further aiding and abetting in the planning, preparation or execution of the criminal acts committed by Kamajors in Tongo subsequently.

727. The Chamber finds, however, that Fofana's speech at the passing out parade constitutes aiding and abetting only of the preparation of those criminal acts which were explicitly ordered by Norman, namely, killing of captured enemy combatants and "collaborators", infliction of physical suffering or injury upon them and destruction of their houses,<sup>1546</sup> which the Chamber found were committed by the Kamajors in the towns of Tongo Field during the second and third attacks.

728. With respect to Count 7, the Chamber recalls that for specific intent crimes, the aider and abettor must have knowledge of the specific intent of the perpetrator to commit such crimes. The Chamber finds that the specific intent to impose a punishment on persons for acts or omissions they have not committed can reasonably be inferred from the circumstances that existed at the

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<sup>1546</sup> The Chamber notes that while the Indictment charges under Count 5 "unlawful taking and destruction by burning of civilian-owned property" burning does not constitute the offence of pillage. See the section on Applicable Law for further discussion of this point.



time and in particular from Norman's order. The Chamber therefore finds that it has been established beyond reasonable doubt that Fofana was aware of the required specific intent to punish collectively.

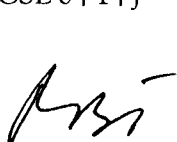
729. The Chamber recognises that other criminal acts alleged in the Indictment were in fact committed in the towns of Tongo Field. However, the Chamber finds that such acts were not included in Norman's order. Therefore, the Chamber finds that it has not been established beyond reasonable doubt that Fofana aided and abetted in the preparation of all the other criminal acts, such as infliction of mental harm or suffering and looting, which we found were committed by the Kamajors in the towns of Tongo Field during the second and third attacks.

730. Under the sub-heading "Counts - Tongo Field", the Chamber will therefore examine only those particular criminal acts that were explicitly included in Norman's order.

731. With respect to Count 6, the Chamber recalls that for specific intent crimes, the aider and abettor must have knowledge of the specific intent of the perpetrator to commit such crimes. The Chamber finds that while spreading terror may have been Norman's primary purpose in issuing the order to kill captured enemy combatants and "collaborators", to inflict physical suffering or injury upon them and to destroy their houses, this is not the only reasonable inference that can be drawn from the evidence. As such the Chamber finds that it has not been proved beyond reasonable doubt that Fofana had the requisite knowledge, an essential element of the crime of acts of terrorism.

732. In addition, the Chamber finds that no evidence has been adduced that Fofana planned, instigated, ordered or committed any of the other criminal acts which the Chamber found were committed in the towns of Tongo Field during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

3.4.1.2. Responsibility Pursuant to Article 6(3)



733. The Chamber finds that the evidence adduced has not established beyond reasonable doubt that there was a superior-subordinate relationship, either *de jure* or *de facto*, between Fofana and all of the Kamajors, who committed other criminal acts in the towns of Tongo Field prior to, during, and after the second and third attacks on Tongo, which the Chamber found were committed during the time frame charged in the Indictment, so as to conclude that he could or did exercise effective control over those Kamajors.

734. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to other criminal acts which the Chamber found were committed by Kamajors in the towns of Tongo Field during the time frame charged in the Indictment.

#### 3.4.2. Responsibility of Kondewa

##### 3.4.2.1. Responsibility Pursuant to Article 6(1)

735. The Chamber finds that at the passing out parade in December 1997 when the attack on Tongo was discussed Kondewa addressed the fighters as the High Priest after the National Coordinator and the Director of War had made their comments. All the fighters looked at Kondewa, admiring him as a man with mystic powers, and he made the last comment saying that the time for the surrender of rebels had long been exhausted and that they did not need any surrendered rebels. The Chamber finds that in uttering these words Kondewa effectively supported Norman's instructions and encouraged the Kamajors to kill captured enemy combatants and "collaborators", to inflict physical suffering or injury upon them and to destroy their houses. Kondewa then gave his blessings for these criminal acts as the High Priest. The Chamber notes that no fighter would go to war without Kondewa's blessings because they believed that Kondewa transferred his mystical powers to them and made them immune to bullets.

736. As found by the Chamber above, the Kamajors who then proceeded to attack Tongo not only received a direction from Norman to commit specific criminal acts, they also had encouragement and support from Kondewa through his blessing, as one of their leaders with mystical powers, to commit such acts. The Chamber is satisfied that Kondewa's words had a substantial effect on the perpetration of those criminal acts. Although Kondewa's speech was given at Base Zero in December 1997 prior to the commission of the criminal acts by Kamajors in Tongo



in January 1998, the Chamber finds that the Accused is liable for aiding and abetting even when his conduct occurred before the principal crime had been perpetrated and at a location geographically removed from that of the principal crime.

737. The Chamber observes that in order to make a finding that Kondewa aided and abetted in the commission of the alleged crimes it is irrelevant whether he shared the intent of the perpetrators. Similarly, the Chamber need not examine whether Kondewa knew of the precise crime that was intended by the principal perpetrator. However, the Chamber should be satisfied that Kondewa was aware that one of a number of crimes would probably be committed by the Kamajors and that one of those crimes was in fact committed. The Chamber finds that Kondewa knew of Norman's orders that the Kamajors were to kill captured enemy combatants and "collaborators", to inflict physical suffering or injury upon them and to destroy their houses. The Chamber finds that, based on his awareness that the Kamajors who operated in the towns of Tongo Field had previously engaged in criminal conduct, which had been reported to Base Zero,<sup>1547</sup> Kondewa knew that it was probable that the Kamajors would commit at least one of these acts in compliance with the instructions issued. With this knowledge and his knowledge of the orders given by the National Coordinator, Kondewa encouraged and supported the Kamajors in their actions, in consequence of which they committed acts of killing and infliction of physical suffering or injury in the towns of Tongo Field, as was found by the Chamber above.

738. We further find that Kondewa was present and contributed to the discussion at the subsequent commanders' meeting in December 1997 at Base Zero where plans to attack Tongo were discussed. At this meeting Norman further reiterated, clarified and expanded his unlawful orders, which now included looting, to the Kamajor commanders from Tongo. In the absence of any evidence showing how Kondewa contributed to the discussion and decision at this meeting, the Chamber finds that in the circumstances there is no evidence to prove beyond reasonable doubt that Kondewa either planned the commission of this additional crime of looting or that he aided and abetted in the planning, preparation or execution of this additional crime in Tongo.

739. The Chamber finds, however, that the speech by Kondewa at the passing out parade constitutes aiding and abetting in the preparation of those criminal acts which were explicitly

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<sup>1547</sup> See para. 721(ix).



ordered by Norman, namely, killing of captured enemy combatants and “collaborators”, infliction of physical suffering or injury upon them and destruction of their houses,<sup>1548</sup> which the Chamber found were committed by the Kamajors in the towns of Tongo Field during the second and third attacks.

740. With respect to Count 7, the Chamber recalls that for specific intent crimes, the aider and abettor must have knowledge of the specific intent of the perpetrator to commit such crimes. The Chamber finds that the specific intent to impose a punishment on persons for acts or omissions they have not committed can reasonably be inferred from the circumstances that existed at the time and in particular from Norman’s order. The Chamber therefore finds that it has been established beyond reasonable doubt that Kondewa was aware of the required specific intent to punish collectively.

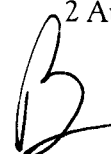
741. The Chamber recognises that other criminal acts alleged in the Indictment were in fact committed in the towns of Tongo Field. However, the Chamber finds that such acts were not included in Norman’s order. Therefore, the Chamber finds that it has not been established beyond reasonable doubt that Kondewa aided and abetted in the preparation of all the other criminal acts, such as infliction of mental harm or suffering and looting, which we found were committed by the Kamajors in the towns of Tongo Field during the second and third attacks.

742. Under the sub-heading “Counts - towns of Tongo Field”, the Chamber will therefore examine only those particular criminal acts that were explicitly included in Norman’s order.

743. With respect to Count 6, the Chamber recalls that for specific intent crimes, the aider and abettor must have knowledge of the specific intent of the perpetrator to commit such crimes. The Chamber finds that while spreading terror may have been Norman’s primary purpose in issuing the order to kill captured enemy combatants and “collaborators”, to inflict physical suffering or injury upon them and to destroy their houses, this is not the only reasonable inference that can be drawn from the evidence. As such the Chamber finds that it has not been proved beyond

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<sup>1548</sup> The Chamber notes that while the Indictment charges under Count 5 “unlawful taking and destruction by burning of civilian-owned property” burning does not constitute the offence of pillage. See the section on Applicable Law for further discussion of this point.



reasonable doubt that Kondewa had the requisite knowledge, an essential element of the crime of acts of terrorism.

744. In addition, the Chamber finds that no evidence has been adduced that Kondewa planned, instigated, ordered or committed any of the other criminal acts which the Chamber found were committed in the towns of Tongo Field during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Normani, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

#### 3.4.2.2. Responsibility Pursuant to Article 6(3)

745. The Chamber finds that the evidence adduced has not established beyond reasonable doubt that there was a superior-subordinate relationship, either *de jure* or *de facto*, between Kondewa and all of the Kamajors, who committed other criminal acts in the towns of Tongo Field prior to, during, and after the second and third attacks on Tongo, which the Chamber found were committed during the time frame charged in the Indictment, such as to conclude that he could or did exercise effective control over those Kamajors.

746. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to other criminal acts which the Chamber found were committed by Kamajors in the towns of Tongo Field during the time frame charged in the Indictment.

#### 3.4.2.3. Counts - The Towns of Tongo Field

747. The Chamber recognises that other criminal acts have been committed by Kamajors in the towns of Tongo Field during the time frame relevant to the Indictment. In the Chamber's opinion, having regard to all the evidence adduced, these criminal acts were either not charged in the Indictment or fall outside the time frame of the Indictment or there is no indication that the accused were involved in the commission of these crimes through any of the modes of liability

alleged in the Indictment. Therefore, the Chamber will not examine these criminal acts for the purposes of making legal findings on the responsibility of each Accused.

748. The Chamber observes that the allegations against Fofana and Kondewa for criminal acts alleged to have been committed by the Kamajors in the towns of Tongo Field are identical. The evidence relied on by the Chamber to make its factual findings on the criminal acts committed by Kamajors in these locations are also identical. While the Chamber has dealt with the factual findings underlying each count together, it has considered the individual criminal liability of each Accused, with respect to each count, separately.

3.4.2.3.1. *Count 2: Murder*

749. The Prosecution alleges that Fofana and Kondewa are individually criminally responsible, pursuant to Article 6(1), for the unlawful killing of an unknown number of civilians and captured enemy combatants at or near Tongo Field and at or near the towns of Lalehun, Kamboma, Konia, Talama, Panguma and Sembehun, between about 1 November 1997 and 30 April 1998.<sup>1549</sup>

750. As set out above in Sections V.2.3.3 - V.2.3.7 of the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 2, Murder:

- (i) In early January 1998, a 12 year-old boy named Foday Koroma was killed in Talama because he was related to a rebel from Tongo.
- (ii) In early January 1998, 150 Loko, Limba and Temne tribe members were separated from members of other tribes and were killed in Talama.
- (iii) On 14 January 1998, two men identified as rebels were killed by Kamabote at the NDMC Headquarters in Tongo.
- (iv) On 14 January 1998, Kamabote killed a man named "Dr. Blood" and a woman named Fatmata Kamara at the NDMC Headquarters in Tongo. Both were considered to be collaborators.
- (v) On 14 January 1998, at the NDMC Headquarters in Tongo, two women identified more than 10 men as collaborators. These men were led by armed Kamajors to a place behind the Headquarters where cows were slaughtered. Two hundred others who had been identified as rebels were also led in the same direction.

<sup>1549</sup> Indictment, para. 25(a).

- (vi) On 14 January 1998, Kamajors took TF2-048's uncle, an unidentified woman and an unidentified child behind a house at the NDMC Headquarters in Tongo. The Kamajors returned with blood on their machetes. These people have not been seen again.
- (vii) On 15 January 1998, 20 men who had been accused of being rebels were hacked to death with machetes at the NDMC Headquarters in Tongo.
- (viii) Around noon on 15 January 1998, Kamajors shot at a crowd of civilians at the NDMC Headquarters in Tongo. Many civilians were hit by stray bullets and at least one died.
- (ix) On 15 January 1998, at an intersection near the NDMC Headquarters in Tongo, TF2-048's brother was killed by a Kamajor.
- (x) On 15 January 1998, Kamajors at a checkpoint hacked one man to death for carrying a photograph of a rebel.
- (xi) On 15 January 1998, Kamajors at another checkpoint hacked a boy named Sule to death for carrying a wallet that resembled SLA fatigues.
- (xii) Kamajors separated men and women in Bumie and killed five men after making them stare at the sun.
- (xiii) Shortly after the third attack on Tongo, a group of 65 civilians was separated into two lines in Kamboma; the Kamajors shot the first 57 people and rolled the bodies into a swamp behind a house. The last eight people were hacked in the neck with machetes and rolled into the swamp with the other bodies. Only one man survived.
- (xiv) In mid-February 1998, Aruna Konowa was killed in Lalehun, on the order of a Kamajor boss named Chief Baimba Aruna, because he was considered to be a collaborator.
- (xv) A few days after the killing of Aruna Konowa, Brima Conteh was killed in Lalehun by Kamajors who accused him of being "the chief of the rebels".

751. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i) through (xv) and concludes that all of the perpetrators were Kamajors. We find that individuals were killed intentionally; in the majority of cases they were specifically targeted because of the perpetrator's belief that they were "collaborators" or rebels. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 750(i) - 750(iv) and 750(vi) - 750(xv) was sufficiently related to the armed conflict to

satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to above in paragraph 750, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that they were killed and, furthermore, that the perpetrator knew that the victims were not taking an active part in the hostilities.

752. In light of the findings set out above, the Chamber is satisfied that the general requirements of war crimes have been established beyond reasonable doubt with respect to each incident described in paragraph 750.

753. With respect to those incidents described in paragraph 750(i)750(iv) - 750(iv) and 750(vi) - 750(xv), above, the Chamber is satisfied not only that the general requirements of war crimes have been established but also that the specific elements of murder have been met with respect to each incident. However, the Chamber finds that the specific elements of the crime of murder have not been established with respect to paragraph 750, as the conclusion that these people were killed is not the only reasonable inference to be drawn from the evidence.

3.4.2.3.2. *Count 4: Cruel Treatment*

754. The Prosecution alleges that Fofana and Kondewa are individually criminally responsible, pursuant to Article 6(1), for the intentional infliction of serious physical harm and serious physical suffering on an unknown number of civilians in Tongo Field and the surrounding areas, between 1 November 1997 and 30 April 1998.<sup>1550</sup>

755. Additionally, the Prosecution alleges that Fofana and Kondewa are individually criminally responsible, pursuant to Article 6(1), for the intentional infliction of serious mental harm and serious mental suffering on an unknown number of civilians in Tongo Field and the surrounding areas, between November 1997 and December 1999, through the following acts:

- screening for collaborators;
- unlawfully killing suspected collaborators, often in plain view of friends and relatives;
- illegal arrest and unlawful imprisonment of collaborators;

<sup>1550</sup> Indictment, para. 26(a).

*RBI*

*A*

*B*

- the destruction of homes and other buildings;
- looting and threats to unlawfully kill, destroy or loot.<sup>1551</sup>

756. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 4, Cruel Treatment:

- (i) On 14 January 1998, at the NDMC Headquarters in Tongo, a Kamajor hacked at three people with a cutlass.
- (ii) On 15 January 1998, at a checkpoint in Dodo, Kamajors hacked the right hand of a man they thought was a rebel.
- (iii) Shortly after the third attack on Tongo, a group of 65 civilians was separated into two lines in Kamboma; 64 were killed. One man was hacked in the neck with a machete but survived.
- (iv) Some time after escaping from a checkpoint in Panguma, Kamabote found TF2-035 in Ngiehun. On discovering that TF2-035 was a Limba, Kamabote ordered a child soldier named "Small Hunter" to kill TF2-035. Small Hunter shot TF2-035 five times; one bullet is still in his body.

757. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i)-(iv) and concludes that all these acts were committed by Kamajors. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 756 (i) - (iv) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to above in paragraph 756, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that the acts described above occurred and, furthermore, that the perpetrators knew that they were not taking an active part in the hostilities.

758. In light of the findings set out above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of cruel treatment have been established with respect to each incident described in paragraph 756.

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<sup>1551</sup> Indictment, para. 26(b).

AS

C

B

3.4.2.3.3. *Count 7: Collective Punishments*

759. The Prosecution alleges that Fofana and Kondewa are individually criminally responsible, pursuant to Article 6(1), for committing the crimes charged in Counts 1 through 5 of the Indictment as part of a campaign to punish the civilian population of the relevant geographical areas.<sup>1552</sup>

760. The Chamber recalls that only those acts for which the Accused have been found to bear criminal responsibility under another count of the Indictment may form the basis of criminal responsibility for collective punishments. In this regard, the Chamber recalls that it has found that Fofana bears criminal responsibility as a superior under Counts 2, 4 and 7 in the towns of Tongo Field.

761. The Chamber finds that the evidence adduced proves beyond reasonable doubt that the acts described in paragraph 750(i)750(iv) - 750(iv) and 750(vi) - 750(xv) [Count 2] and in paragraph 756 [Count 4] were perpetrated with the specific intent to punish the civilian population in Tongo Field and the surrounding areas.

762. The Chamber is therefore satisfied, in relation to those acts described in paragraph 750(i)750(iv) - 750(iv) and 750(vi) - 750(xv) and in paragraph 756, that both the general requirements of war crimes and the specific elements of collective punishments have been proved beyond reasonable doubt with respect to each incident.

3.4.3. Conclusion

3.4.3.1. Responsibility of Fofana

763. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for aiding and abetting in the preparation of the crimes committed in the towns of Tongo Field as found under Counts 2, 4 and 7 above.

3.4.3.2. Responsibility of Kondewa

764. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for

<sup>1552</sup> Indictment, para. 28.

aiding and abetting in the preparation of the crimes committed in the towns of Tongo Field as found under Counts 2, 4 and 7 above.

### 3.5. Koribondo

765. In addition to the facts listed above in paragraph 721 (i) to (viii), the Chamber outlines below the facts as found in Sections V.2.2, V.2.4.2, V.2.4.3, V.2.4.4 and V.2.4.6 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa with respect to Koribondo:

- (i) At a passing out parade at Base Zero in early January 1998 Norman gave orders to the Kamajors to launch an "all-out offensive" in all the areas occupied by the Juntas and laid-down military instructions on how to conduct this operation.
- (ii) Fofana addressed the Kamajors at this parade, confirming Norman's order to attack various junta-held territories. During this speech Fofana told the fighters to attack the villages where the juntas were located and "to destroy the soldiers from where they were [...] settled". He also said that the failure to take Koribondo was a disgrace to the Kamajors and that this time he wanted them to go and capture Koribondo.
- (iii) Kondewa gave his blessings and the medicines which would make the fighters fearless if they did not spoil the law. He also said that all of his powers had been transferred to them to protect them, so that no cutlass would strike them and that they should not be afraid.
- (iv) A subsequent commanders' meeting for Koribondo was held by Norman at Base Zero on the same day as the passing out parade, which had in attendance, among others, Fofana, Kondewa, Lamin Ngobeh, Joe Tamidey, Bobor Tucker and other commanders. Norman chose Joe Tamidey to lead the attack on Koribondo. Norman ordered that Koribondo should be taken "at all costs" because they had already spent a lot on Koribondo. Norman gave specific orders to the commanders to destroy or burn everything in Koribondo, except for a mosque, church, the Barri and the school. He also said that anyone left in town should be termed an enemy or a rebel since they had been forewarned and should be killed.
- (v) At the same meeting Bobor Tucker's group was specifically ordered to reinforce the Bo-Koribondo Highway so that no one could come from Bo to help the juntas.

- (vi) At the request of Joe Tamidey, Norman ordered Lumeh to provide Tamidey with ammunition, food and money. Bobor Tucker had reserve ammunitions from before that he used for the attack.
- (vii) Norman met with Nallo before the Koribondo and Bo attacks at Base Zero and gave him specific instructions for these two attacks, while Fofana was present. Norman told Nallo that the Kamajors had tried to capture Koribondo many times and that they had failed because the civilians had given their children to the juntas in marriage and thus they were all "spies and collaborators". Therefore, when he goes to Koribondo "anybody that was met there should be killed" and nothing should be left "not even a farm" or "a fowl". All houses were to be burnt, and he was given petrol for the job. Some specific names were mentioned. Shekou Gbao, the driver, should be killed and his compound be burnt because he was giving his vehicle to the juntas. The house of Mike Lamin's father was also to be burnt, because Mike Lamin was a RUF. Mr Biyo, a driver, should have his compound burnt as well. Although Joe Tamidey was appointed by Norman to lead the attack on Koribondo, he and the other commanders involved in that attack were all under Nallo's overall command.
- (viii) Fofana as Director of War and one of the leaders at Base Zero was the superior of Nallo by virtue of Nallo's positions in the hierarchical structure of the organisation that existed at Base Zero. Nallo was the Deputy National Director of Operations and the Regional Director of Operations for the Southern Region, which included Districts of Bo, Moyamba, Pujehun and Bonthe. In his capacity as Deputy National Director of Operations, Nallo was responsible for transmitting general and specific instructions from Norman to the warfront commanders, for collecting reports he received from the frontline upon his visits and transmitting them to Fofana before presenting them to Norman, and bringing arms and ammunitions to the fighters.
- (ix) As Regional Director of Operations Nallo was responsible for implementing commands he received from Base Zero with his commanders. In implementing those commands he did not distinguish between the lawful and unlawful orders and did not recognise that he had discretion to implement them or not.
- (x) The local operational planning for the attack on Koribondo was done at Kpetewoma. Nallo was the intermediary between Norman at Base Zero and Joe Tamidey. During the first meeting local manpower was provided to assist the Kamajors. At the third meeting, Nallo supplied cartridges, bombs, G3s and AK-47s to Joe Tamidey, which he had said were given by Norman for the attack on Koribondo. Thereafter plans were made, fighters were organized and the arms and ammunition were distributed to the various groups by Joe Tamidey. The following commanders were to lead the battle from three flanks: Bobor Tucker from the Bo-Koribondo Highway; Lahai George from the Sumbuya-Koribondo Highway; and Joe





Tamidey from Blama. Joe Tamidey then informed Nallo for further report to Norman that the attack was planned for the 13th of February 1998.

- (xi) The attack started from Jombohun and was commanded by Joe Tamidey, Bobor Tucker and Lamin Ngobeh. Although the commanders were operating with different groups, they were all under Nallo's command. Around 700 Kamajors that attacked Koribondo were predominantly, but not exclusively, from the Jaiama-Bongor Chiefdom. Others came from the Districts of Pujehun, Bonthe and Bo.
- (xii) Four days after the capture of Bo, Joe Tamidey met with Fofana, Kondewa and Norman in Koribondo. He was taken to Bo where he was questioned by Fofana as to his reasons for not killing Shekou Gbao.
- (xiii) At the end of March 1998, Norman addressed approximately 200 civilians and 400 Kamajors at the Court Barri in Koribondo. Norman scolded the Kamajors for not having done the work he had told them to do, in particular to destroy all the houses, except for three. On this visit Fofana and Kondewa accompanied Norman but they did not attend this meeting.

### 3.5.1. Responsibility of Fofana

#### 3.5.1.1. Responsibility pursuant to Article 6(1)

766. The Chamber takes the view that Fofana's speech at the passing out parade in early January 1998, when Norman gave orders to the Kamajors to launch an "all-out offensive" in all the areas occupied by the Juntas and laid-down military instructions on how to conduct this operation, was words of encouragement to the Kamajor fighters who were about to conduct those military operations. The Chamber finds, however, that this speech does not amount to urging, encouraging or prompting the Kamajors to commit criminal acts. Although this speech contained an instruction to "attack the villages", "destroy the soldiers" and "capture Koribondo" and was given by Fofana in his position as Director of War to his subordinates, it did not include the instruction to commit criminal acts. This evidence does not demonstrate beyond reasonable doubt that Fofana intended to provoke or induce or bring about the commission of the criminal acts which the Chamber found were committed by Kamajors subsequently during the attack on Koribondo or that Fofana had reasonable knowledge that criminal acts would likely be committed as a result of this speech.

767. Furthermore, the Chamber finds that uttering these words of encouragement to the Kamajor fighters who were about to conduct military operations against the junta-held territories,

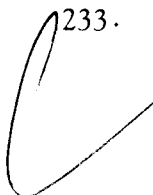
does not constitute aiding and abetting in the planning, preparation or execution of the criminal acts alleged. We find that there is no evidence to conclude beyond reasonable doubt that at the time of giving of his speech Fofana was aware of the Kamajors' intention to commit any of the criminal acts, which the Chamber found were committed in Koribondo by the Kamajors during the attack.

768. Although Fofana was present at the subsequent commanders' meeting where the attack on Koribondo was planned, we find that this evidence together with the evidence of his speech at the passing out parade does not establish beyond reasonable doubt that Fofana planned the commission of any of the criminal acts in Koribondo.

769. We further find that the mere presence of Fofana at this commanders' meeting as well at the private meeting with Nallo, at which Norman gave orders to Nallo, Joe Tamidey, Bobor Tucker, Lamin Ngobeh and other Kamajor commanders to commit criminal acts does not establish beyond reasonable doubt that Fofana aided and abetted in the planning, preparation or execution of these criminal acts.

770. The Chamber further finds that no evidence has been adduced of Fofana physically or otherwise directly perpetrating any of the criminal acts which we found were committed in Koribondo during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

771. On the basis of the foregoing the Chamber now finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Koribondo during the time frame charged in the Indictment.



3.5.1.2. Responsibility pursuant to Article 6(3)

772. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Fofana is individually criminally responsible as a superior pursuant to Article 6(3) for any of the criminal acts which the Chamber found were committed in Koribondo during the time frame charged in the Indictment.

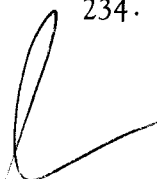
3.5.1.2.1. *Superior-subordinate relationship*

773. We find that there was a superior-subordinate relationship between Fofana and Nallo and that Fofana had authority and control over Nallo's actions. By virtue of his *de jure* status as Director of War Fofana exercised this control over Nallo, who in the hierarchical structure of the CDF organisation was his subordinate as Deputy National Director of Operations and Director of Operations for the Southern Region. Fofana also had *de facto* control over Nallo. Fofana had the legal and material ability to issue orders to Nallo, both by reason of his leadership role at Base Zero, being part of the CDF High Command, and the authority he exercised in his position as Director of War.

774. Nallo regularly brought frontline reports to Base Zero. These reports were brought to Fofana before being given to Norman. Further, Fofana and Nallo together planned and executed the war strategies. Fofana's authority at Base Zero was such that people would not approach him unless summoned by him. Finally, he acted as the overall boss of the commanders at Base Zero. The Chamber finds that Fofana had both the legal and material ability to prevent the commission of criminal acts by Nallo and other subordinates or to punish them for these acts.

775. Consonant with our earlier finding, Nallo in addition to being in charge of the commanders in the Southern Region in his capacity as Regional Director of Operations was also specifically assigned the responsibility for the Koribondo operation. Although Joe Tamidey was chosen by Norman to lead the attack on Koribondo, Nallo was the overall commander for this operation. We find that Nallo exercised command over Joe Tamidey, Bobor Tucker and Lahai George as well as the Kamajors under their immediate command.

776. The Chamber finds that the evidence of the local planning in Kpetewoma for the attack on Koribondo demonstrates not only the direct participation of Nallo in the preparation of this attack but also that his participation then ensured that the orders for the attack which the commanders


received at Base Zero were implemented by the Kamajors on the ground. Prior to the attack Nallo acted as an intermediary between Base Zero (High Command) and Kpetewoma through bringing arms and ammunitions from Base Zero to Kpetewoma and bringing reports back to Base Zero from Kpetewoma and from Joe Tamidey. Despite the fact that there were 700 Kamajors involved in the attack and that not all of them came from Jaiama-Bongor Chiefdom, they were all placed under Nallo's command. Nallo knew how the attack would proceed and who would be involved in that attack.

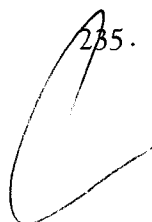
3.5.1.2.2. *Knew or had reasons to know*

777. Fofana knew that the attack on Koribondo would involve the commission of criminal acts by Nallo, Joe Tamidey, Bobor Tucker, Lamin Ngobeh and other commanders. He was present at the meetings at which the unlawful orders, namely, to take Koribondo "at all costs", kill everyone who was left in town for being "collaborators" and destroy or burn everything in Koribondo, except for a mosque, church, the Barri and the school, had been given to these Kamajor commanders by Norman. The Chamber further finds that the fact that Fofana met with Joe Tamidey together with Norman and Kondewa after the attack and questioned him as to his reasons for not killing Shekou Gbao, further shows that Fofana knew about the orders given by Norman to kill certain identified "collaborators" in Koribondo.

778. With respect to Count 7, the Chamber finds that it can reasonably be inferred from Norman's order that Fofana knew or had reasons to know that his subordinates were about to commit collective punishments in Koribondo.

779. With respect to Count 6, the Chamber finds that it is not the only reasonable inference that Fofana knew or had reasons to know that his subordinates would commit criminal acts in Koribondo with the primary purpose of spreading terror, as the commission of such acts was not explicitly included in Norman's order.

780. Similarly, while some of the criminal acts which were committed subsequently by the Kamajors in Koribondo might have been committed with the primary purpose of spreading terror, the Chamber finds the evidence adduced has not established beyond reasonable doubt that Fofana knew or had reasons to know that such acts had been committed by his subordinates subsequently.


781. The Chamber recognises that other criminal acts alleged in the Indictment, such as looting, were in fact committed in Koribondo.<sup>1553</sup> However, the Chamber finds that such acts were not included in Norman's order. Therefore, the Chamber finds that it has not been established beyond reasonable doubt that Fofana knew or had reasons to know that these other criminal acts would also be committed by the Kamajors in Koribondo.

3.5.1.2.3. *Measures to prevent or punish*

782. The Chamber finds that Fofana as a superior had a duty to take necessary and reasonable measures to prevent the commission of the criminal acts by his subordinates or to punish them. His duty to prevent arose from the moment he learnt that his subordinates received unlawful orders from Norman and were about to execute those orders. We find that Fofana's duty to prevent included both the obligation not to comply with the unlawful orders of Norman and the obligation to ensure that his subordinates did not obey those orders. We find, however, that he did nothing to prevent the commission of these criminal acts by his subordinates. As a result of this failure on his part the Kamajors under his effective control committed the criminal acts of killing, destruction and burning, which the Chamber found were committed by the Kamajors in Koribondo. Thus, he failed as a superior in the exercise of his duties to prevent the commission of these specific criminal acts by his subordinates. Under the sub-heading "Counts - Koribondo", the Chamber will examine only those particular criminal acts that were explicitly included in Norman's order.

783. Since the Chamber finds that Fofana failed his duty as a superior to prevent the commission of criminal acts by his subordinates, it is not necessary to examine whether Fofana also failed to punish those Kamajors for those same acts.

3.5.1.3. Counts - Koribondo

784. The Chamber recognises that other criminal acts have been committed by Kamajors in Koribondo during the time frame relevant to the Indictment. In the Chamber's opinion, having regard to all the evidence adduced, these criminal acts were either not charged in the Indictment or fall outside the time frame of the Indictment or there is no indication that the accused were

<sup>1553</sup> See Section V.2.4.5.4, "Looting in Koribondo".

involved in the commission of these crimes through any of the modes of liability alleged in the Indictment. Therefore, the Chamber will not examine these criminal acts for the purposes of making legal findings on the responsibility of each Accused.

3.5.1.3.1. *Count 2: Murder*

785. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for the unlawful killing of an unknown number of civilians or captured enemy combatants, committed by his subordinates on or about January and February 1998, in locations in Bo District, including Koribondo.<sup>1554</sup>

786. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 2, Murder:

- (i) On 15 February 1998, the mutilation and killing at Koribondo junction of five Limba who had been accused of being collaborators.
- (ii) On 15 February 1998, the mutilation and killing at Blama Road of two Limba civilians.
- (iii) On 16 February 1998, the killing of eight people along the Blama Road: five men belonging to the junta and three soldier's wives.
- (iv) On 16 February 1998, the killing and mutilation of Chief Kafala took place in the street opposite the hospital. Chief Kafala had been accused of collaboration; this killing took place in the presence of many people.
- (v) After the capture of Koribondo, Lahai Bassie was arrested, beaten and accused of being a collaborator because his son was a soldier. He died of his wounds one week later.

787. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i) through (v) and concludes that all of the perpetrators were Kamajors under the effective control of Fofana. We find that individuals were intentionally killed; in the majority of cases they were specifically targeted because of the perpetrator's belief that they were "collaborators" or rebels. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 786(i)-(v) was sufficiently related

<sup>1554</sup> Indictment, para. 25(d).

to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to above in paragraph 786, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that they were killed and, furthermore, that the perpetrator knew that the victims were not taking an active part in the hostilities.

788. In light of the findings set out above, the Chamber is satisfied that the general requirements of war crimes have been established with respect to each incident described in paragraph 786.

789. With respect to those incidents described in paragraph 786 (i)-(v), listed above, the Chamber is satisfied not only that the general requirements of war crimes have been established but also that the specific elements of murder have been established with respect to each incident.

3.5.1.3.2. *Count 4: Cruel Treatment*

790. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for the intentional infliction of serious mental harm and serious mental suffering on an unknown number of civilians by his subordinates in Koribondo and surrounding areas. These crimes are alleged to have occurred between November 1997 and December 1999, through the following acts:

- screening for collaborators;
- unlawfully killing suspected collaborators, often in plain view of friends and relatives;
- illegal arrest and unlawful imprisonment of collaborators;
- the destruction of homes and other buildings;
- looting and threats to unlawfully kill, destroy or loot.<sup>1555</sup>

791. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 4, Cruel Treatment:

- (i) On 13 February 1998, TF2-032's nine-room house in Koribondo was set on fire by Kamajors. TF2-032 testified that he is still suffering from the

<sup>1555</sup> Indictment, para. 26(b).

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loss: his children are scattered and, despite his advanced age, he currently sleeps in a kitchen.

- (ii) Between 13 and 15 February 1998, after the capture of Koribondo, Kamajors went on a rampage and burned 25 houses. People felt helpless, discouraged, and feared for their lives.

792. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i)-(ii) and concludes that all of the perpetrators of these acts were Kamajors under the effective control of Fofana. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all of the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 791(i)-(ii) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to in paragraph 791, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that the acts described above occurred and, furthermore, that the perpetrators knew that they were not taking an active part in the hostilities.

793. In light of the findings set out above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of cruel treatment have been established with respect to the burning of TF2-032's house described in paragraph 791(i) and the burning of many houses, described in paragraph 791(ii).

#### 3.5.1.3.3. *Count 7: Collective Punishments*

794. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for committing the crimes alleged in Counts 1 through 5, including threats to kill, destroy and loot, to punish the civilian population for their support to, or failure to actively resist, the combined RUF/AFRC forces.<sup>1556</sup>

795. The Chamber reiterates that only those acts for which the Accused have been found to bear criminal responsibility under another count of the Indictment may form the basis of criminal responsibility for acts of collective punishment. In this regard, the Chamber recalls that it has found that Fofana bears criminal responsibility as a superior under Counts 2 and 4 in Koribondo.

<sup>1556</sup> Indictment, para. 28.

796. The Chamber finds that the evidence adduced proves beyond reasonable doubt that the acts described in paragraph 786 [Count 2] and in paragraph 791 [Count 4] were perpetrated with the specific intent to punish the civilian population in Koribondo and the surrounding areas.

797. The Chamber is therefore satisfied, in relation to those acts described in paragraph 786 [Count 2] and in paragraph 791 [Count 4], that both the general requirements of war crimes and the specific elements of collective punishments have been proved beyond reasonable doubt with respect to each incident.

#### 3.5.1.4. Conclusion

798. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Fofana is individually criminally responsible as a superior, pursuant to Article 6(3), for the crimes committed in Koribondo as found under Counts 2, 4 and 7 above.

#### 3.5.2. Responsibility of Kondewa

##### 3.5.2.1. Responsibility pursuant to Article 6(1)

799. The Chamber takes the view that Kondewa's speech at the passing out parade in early January 1998 was words of moral support and encouragement to the Kamajor fighters who were about to conduct military operations on the junta-held territories. The Chamber finds, however, that this speech does not amount to urging, encouraging or prompting the Kamajors to commit criminal acts. This evidence does not demonstrate beyond reasonable doubt that Kondewa intended to provoke or induce the commission of the criminal acts which the Chamber found were committed by Kamajors subsequently during the attack on Koribondo or that Kondewa had reasonable knowledge that criminal acts would likely be committed as a result of his speech.

800. Furthermore, the Chamber finds that giving moral support or blessing as well as providing medicine which the Kamajors believed would protect them against the bullets does not constitute aiding and abetting in the planning, preparation of execution of the criminal acts. We find that there is no evidence to conclude beyond reasonable doubt that at the time of giving his speech and providing his medicine Kondewa was aware of the Kamajors' intention to commit any criminal acts, which the Chamber found were committed by the Kamajors in Koribondo during the attack.

801. Although Kondewa was present at the subsequent commanders' meeting where the attack on Koribondo was planned, we find that this evidence together with the evidence of his speech at the passing out parade does not establish beyond reasonable doubt that Kondewa planned the commission of any of the criminal acts in Koribondo.

802. The Chamber finds that the mere presence by Kondewa at this subsequent commanders' meeting, at which Norman gave orders to Joe Tamidey, Bobor Tucker, Lamin Ngobeh and other Kamajor commanders to commit criminal acts does not establish beyond reasonable doubt that Kondewa aided and abetted in the planning, preparation or execution of these criminal acts.

803. The Chamber further finds that no evidence has been adduced of Kondewa ordering or physically or otherwise directly perpetrating any of the criminal acts which the Chamber found were committed in Koribondo during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

804. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Koribondo during the time frame charged in the Indictment.

#### 3.5.2.2. Responsibility pursuant to Article 6(3)

805. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Kondewa is criminally responsible as a superior pursuant to Article 6(3) for any of the criminal acts which the Chamber found were committed in Koribondo during the time frame charged in the Indictment.

##### 3.5.2.2.1. *Superior-subordinate relationship*

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806. We find that there is no evidence upon which to conclude beyond reasonable doubt that Kondewa had a superior-subordinate relationship with any of the Kamajors involved in the commission of criminal acts in Koribondo. Although he possessed command over all the Kamajors from every part of the country, this was, however, limited to the Kamajors' belief in mystical powers which Kondewa allegedly possessed. This evidence is inconclusive, however, to establish beyond reasonable doubt that Kondewa had an effective control over the Kamajors, in a sense that he had the material ability to prevent or punish them for their criminal acts. The Chamber noted that Kondewa's *de jure* status as High Priest of the CDF gave him the authority over all the initiators in the country as well as put him in charge of the initiations. This authority did not give him the power to decide who should be deployed to go to the war front. He also never went to the war front himself. The evidence adduced, therefore, has not established beyond reasonable doubt that Kondewa had any superior-subordinate relationship with the Kamajors who operated in Koribondo during the attack.

807. Since an essential element of superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to any of the criminal acts which the Chamber found were committed by Kamajors in Koribondo during the time frame charged in the Indictment.

### 3.5.2.3. Conclusion

808. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to either Article 6(1) or 6(3) for any of the criminal acts which the Chamber found were committed in Koribondo during the time frame charged in the Indictment.

## 3.6. Bo District

809. In addition to the facts, listed in paragraphs 721 (i) to (viii) and 765 (i) to (iii), (viii) and (ix) above, the Chamber outlines below the facts as found in Sections V.2.2, V.2.5.2 and V.2.5.3, V.2.5.6 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa:

- (i) After a passing out parade at Base Zero in early January 1998 a subsequent commanders' meeting was held on the same day at the back of the field at Base Zero. At this meeting Norman ordered the Kamajor commanders James Kaillie, Joseph Lappia and TF2-017 to attack Kebi and Bo Towns. Norman gave specific orders to these commanders to kill enemy combatants and "collaborators", to burn down their houses and loot big shops, especially pharmacies. Fofana and Kondewa were both present at this meeting.
- (ii) After the commanders' meeting Fofana provided arms, ammunitions and a vehicle to James Kaillie, Joseph Lappia and TF2-017.
- (iii) In Dar-es-Salam TF2-017 presented a verbal situation report on the Kebi attack and handed over a captured soldier and two solar panels to Norman, in the presence of Fofana and Kondewa. Norman handed over the captured soldier to Kondewa who took him to Base Zero.
- (iv) The order to attack Bo was reiterated by Norman to TF2-017 in Bumpeh, in the presence of the Director of War Fofana and the High Priest Kondewa. Kondewa renewed the initiation of certain Kamajors to prepare them for the attack.
- (v) Norman met with Nallo before the Koribondo and Bo attacks at Base Zero and gave him specific instructions for these two attacks, while Fofana was present. Norman gave specific orders to Nallo to kill certain identified civilians in Bo who he labelled as "collaborators", loot and burn their houses, loot the Southern Pharmacy and bring the medicines to Norman. Specifically the name of MB Sesay was mentioned. Norman also ordered Nallo to kill the police officers.
- (vi) The attack on Bo proceeded from four flanks. James Kaillie was the Battalion Commander and the commander of the group coming from the Tikonko road (Mattru). Joseph Lappia was his deputy. TF2-017 was part of this group with his 38 Kapras. Nallo, in his capacity as the Regional Director of Operations, was in charge of the commanders below him but could not exercise full or strict control over all of them because of their large numbers. In Bo operation specifically, he was regarded by TF2-017 as his "operational" or "division" commander.
- (vii) In addition to the James Kaillie's group, there were at least three other groups of Kamajors who attacked Bo from Gerihun, Dambara and Moyamba-Bo Highway. At least 270 Kamajors participated in this attack. The tactical planning for the Bo attack was done in Bumpeh, which was considered by Norman as a focal point for this attack. Nallo knew about the local planning in Bumpeh.
- (viii) In April 1998, Norman, Fofana and Kondewa with other Kamajor leaders and initiators visited the New Police barracks in Bo Town. Norman complained that the Kamajor chiefs, in particular Fofana, had lied to him

about the burnt down police barracks and policemen killed in Bo Town. Norman said that he felt deceived after having seen the barracks intact and the police at the parade.

- (ix) Sometime after the attack on Bo in February 1998, a CDF office was set up in Bo. It was initially run by Alhaji Daramy Rogers, the Regional Coordinator for the Southern Region. Around June 1998, the position of Regional Coordinator was replaced by that of the District Administrator. Kosseh Hindowa occupied the latter position in Bo.
- (x) After the dissolution of Base Zero, Fofana retained his position of Director of War. However, he was no longer responsible for the conduct of the war and the fighting forces. His duties included distribution of logistics to the various parts of the country. In mid-1999 he became the Director of the Peace Office in Bo.

### 3.6.1. Responsibility of Fofana

#### 3.6.1.1. Responsibility pursuant to Article 6(1)

810. The Chamber reiterates that Fofana's speech at the passing out parade in early January 1998 does not constitute instigating or ordering the commission of the criminal acts, or aiding and abetting in the planning, preparation or execution of the criminal acts, which the Chamber found were subsequently committed by Kamajors in Bo District.

811. The Chamber finds that although Fofana was present at the subsequent commanders' meeting where the attack on Bo was planned, this evidence does not establish beyond reasonable doubt that Fofana planned the commission of any of the criminal acts in Bo.

812. The Chamber finds that the mere presence by Fofana at this commanders' meeting as well at the private meeting with Nallo, at which Norman gave orders to Nallo, James Kaillie, Joseph Lappia and TF2-017 to commit criminal acts does not establish beyond reasonable doubt that Fofana aided and abetted in the planning, preparation or execution of these criminal acts.

813. We found that although Fofana was responsible at Base Zero for the receipt and the provision of ammunitions to the commanders, he could only perform these acts, if and when directed to do so by Norman. Furthermore, the Chamber finds that Fofana provided logistics to launch military attacks on Kebi and Bo Towns. Although at this stage Fofana knew that the plan to attack Bo Town included the commission of criminal acts, it is not the only reasonable inference that the logistics provided by Fofana were used to commit specific criminal acts in Bo





Town or that such provision had a substantial effect upon the perpetration of these specific criminal acts in Bo. Therefore, these actions by Fofana do not constitute aiding and abetting in the planning, preparation or execution of the criminal acts committed by Kamajors subsequently in Bo.

814. The Chamber further finds that no evidence has been adduced of Fofana physically or otherwise directly perpetrating any of the criminal acts which we found were committed in Bo District during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

815. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Bo District during the time frame charged in the Indictment.

3.6.1.2. Responsibility pursuant to Article 6(3)

816. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Fofana is individually criminally responsible as a superior pursuant to Article 6(3) for any of the criminal acts which the Chamber found were committed in Bo District during the time frame charged in the Indictment.

3.6.1.2.1. *Superior-subordinate relationship*



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817. The Chamber reiterates its finding above that there was a superior-subordinate relationship between Fofana and Nallo and that Fofana exercised effective control over Nallo, in a sense of having the material ability to prevent Nallo's criminal acts or punish him for these acts.<sup>1557</sup>

818. Nallo, in addition to being in charge of the commanders in the Southern Region in his capacity as Regional Director of Operations, was also specifically assigned the responsibility for the Bo operation. We find that he exercised command over the group of Kamajors led by James Kaillie, which included Joseph Lappia and TF2-017 as well as the Kamajors under their immediate command. Having received the specific instructions from Norman at Base Zero, in the presence of Fofana, Nallo ensured that his subordinates implemented those instructions. Indeed, as was found by the Chamber above, it was the group of Kamajors led by James Kaillie, who committed the criminal acts in Bo as specifically ordered by Norman. Thus, we find that the command and control exercised by Nallo over this group of Kamajors was effective.

819. However, there is no evidence from which the Chamber can conclude beyond reasonable doubt that Nallo did exercise the same degree of control over other Kamajor commanders and fighters who operated in Bo both during the attack and subsequently. By Nallo's own admission, he could not exercise full or strict control over all of the Kamajors in Southern Region due to their large numbers. Moreover, the evidence as to the local planning in Bumpah for the attack in Bo is inconclusive as to the participation of Nallo in it. Hence, on the basis of this evidence it cannot be established beyond reasonable doubt that other Kamajors who participated in the Bo attack were also under the overall command of Nallo, as the group of James Kaillie. Finally, there is no evidence to conclude beyond reasonable doubt that these other Kamajors were present at the commanders' meeting at Base Zero in early January 1998.

820. The Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana had a superior-subordinate relationship with all the Kamajors who operated in Bo District and who committed criminal acts during the attack on Bo as well as subsequently as found by the Chamber above, except those Kamajors who are specifically mentioned above. Since the first element of a superior responsibility is not established, it is not necessary to examine the

<sup>1557</sup> Finding on 6(3) for Fofana in Koribondo.

two remaining elements with respect to the criminal acts which the Chamber found were committed in Bo District by other Kamajors during the time frame charged in the Indictment.

3.6.1.2.2. *Knew or had reasons to know*

821. Fofana knew that the attack on Bo Town would involve the commission of criminal acts by Nallo, James Kaillie, Joseph Lappia and TF2-017. He was present at the meetings at which the unlawful orders, namely to kill “collaborators”, burn their houses and loot, had been given to these Kamajor commanders by Norman. In Dar-es-Salam Norman in the presence of Fofana, received a situation report about the Kebi attack from TF2-017. The Chamber finds that the evidence of Fofana’s presence at the third meeting held by Norman in Bo Town in April 1998, where Norman complained that Fofana lied to him about the killing of policemen and burning of their barracks in Bo Town because he could see them intact, further shows that Fofana knew about the orders given by Norman to kill policemen in Bo.

822. With respect to Count 7, the Chamber finds that it can reasonably be inferred from Norman’s order that Fofana knew or had reasons to know that his subordinates were about to commit collective punishments in Bo Town.

823. With respect to Count 6, the Chamber finds that it is not the only reasonable inference that Fofana knew or had reasons to know that his subordinates would commit criminal acts in Bo with the primary purpose of spreading terror, as the commission of such acts was not explicitly included in Norman’s order.

824. Similarly, while some of the criminal acts which were committed subsequently by the Kamajors in Bo might have been committed with the primary purpose of spreading terror, the Chamber finds the evidence adduced has not established beyond reasonable doubt that Fofana knew or had reasons to know that such acts had been committed by his subordinates subsequently.

825. The Chamber recognises that other criminal acts alleged in the Indictment, such as infliction of mental harm or suffering, were in fact committed in Bo. However, the Chamber finds that such acts were not included in Norman’s order. Therefore, the Chamber finds that it has not been established beyond reasonable doubt that Fofana knew or had reasons to know that these other criminal acts would also be committed by the Kamajors in Bo.

3.6.1.2.3. *Measures to prevent or punish*

826. The Chamber finds that Fofana as a superior had a duty to take necessary and reasonable measures to prevent the commission of the criminal acts by his subordinates or to punish them. His duty to prevent arose from the moment he learnt that his subordinates received unlawful orders from Norman and were about to execute those orders. We find that Fofana's duty to prevent included both the obligation not to comply with the unlawful orders of Norman and the obligation to ensure that his subordinates did not obey those orders. We find, however, that he did nothing to prevent the commission of these criminal acts. As a result of this failure on his part the Kamajors under his effective control committed the criminal acts of killing, burning and looting, as will be found by the Chamber below. Thus, he failed as a superior in the exercise of his duties to prevent the commission of the criminal acts by his subordinates. Under the sub-heading "Counts - Bo District", the Chamber will examine only those particular criminal acts that were explicitly included in Norman's order.

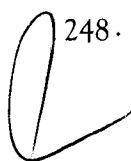
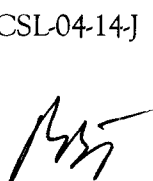
827. Since the Chamber finds that Fofana failed his duty as a superior to prevent the commission of criminal acts by his subordinates, it is not necessary to examine whether Fofana also failed to punish those Kamajors for those same acts.

3.6.1.3. Counts - Bo District

828. The Chamber recognises that other criminal acts have been committed by Kamajors in Bo District during the time frame relevant to the Indictment. In the Chamber's opinion, having regard to all the evidence adduced, these criminal acts were either not charged in the Indictment or fall outside the time frame of the Indictment or there is no indication that the accused were involved in the commission of these crimes through any of the modes of liability alleged in the Indictment. Therefore, the Chamber will not examine these criminal acts for the purposes of making legal findings on the responsibility of each Accused.

3.6.1.3.1. *Count 2: Murder*

829. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for the unlawful killing of an unknown number of civilians or captured enemy combatants committed by his subordinates on or about January and February 1998, in locations in



Bo District, including the District Headquarters town of Bo, Kebi Town, Kpeyama, Fengehun and Mongere.<sup>1558</sup>

830. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 2, Murder:

- (i) The killing of an unidentified woman who was alleged to have cooked for the rebels, by Kamajors, on the order of TF2-017.
- (ii) The killing of John Musa, an alleged collaborator, by Kamajors under the control of Joseph Lappia.

831. The Chamber has examined the facts and circumstances surrounding both incidents set out above in points (i)-(ii) and concludes that all of the perpetrators were Kamajors under the effective control of Fofana. We find that individuals were intentionally killed; in both cases they were specifically targeted because of the perpetrator's belief that they were "collaborators". Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 830(i)-(ii) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to above in paragraph 830, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that they were killed and, furthermore, that the perpetrator knew that the victims were not taking an active part in the hostilities.

832. In light of the findings set out, above, the Chamber is satisfied that the general requirements of war crimes have been established with respect to each incident described in paragraph 830.

833. With respect to those incidents described in paragraph 830 (i)-(ii) the Chamber is satisfied not only that the general requirements of war crimes have been established but also that the specific elements of murder have been proved with respect to each incident.

3.6.1.3.2. Count 4: Cruel Treatment

<sup>1558</sup> Indictment, para. 25(d).

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834. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for the intentional infliction of serious mental harm and serious mental suffering on an unknown number of civilians by his subordinates in Bo and surrounding areas. These crimes are alleged to have occurred between November 1997 and December 1999, through the following acts:

- screening for collaborators;
- unlawfully killing suspected collaborators, often in plain view of friends and relatives;
- illegal arrest and unlawful imprisonment of collaborators;
- the destruction of homes and other buildings;
- looting and threats to unlawfully kill, destroy or loot.<sup>1559</sup>

835. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 4, Cruel Treatment:

- (i) On 15 February 1998 OC Bundu was detained and beaten by Kamajors under the leadership of Nallo, Agbamu Murray and John Ngombeh.
- (ii) On 16 February 1998, in Kandeyama, TF2-001 and other police were separated from other civilians on the order of Kamajor leaders including Agbamu Murray. The police were arrested.

836. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i)-(ii) and concludes that all of the perpetrators of these acts listed above were under the effective control of Fofana. The Chamber finds that OC Bundu and TF2-001 were targeted by the Kamajors because of their status as police officers, a group that was considered by the Kamajors to have collaborated with the juntas.<sup>1560</sup> Furthermore, the incidents described immediately above occurred on the day the Kamajors entered Bo or the following day. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all of the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 835(i) - (ii) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. The Chamber finds that, in light of the circumstances under

<sup>1559</sup> Indictment, para. 26(b).

<sup>1560</sup> Factual Findings, 3<sup>rd</sup> para. of Bo Section.

which these events occurred, it is a reasonable inference that the screening for collaborators experienced by OC Bundu and TF2-001 caused serious mental suffering. Having considered the particular facts and circumstances of each of the incidents referred to in paragraph 835, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that the acts described above occurred and, furthermore, that the perpetrators knew that they were not taking an active part in the hostilities.

837. In light of the findings set out above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of cruel treatment have been met with respect to each incident described paragraph 835.

3.6.1.3.3. *Count 5: Pillage*

838. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for the unlawful taking of civilian-owned property between about 1 November 1997 and 1 April 1998.<sup>1561</sup> These crimes are alleged to have occurred at various locations in Bo District, including the towns of Bo and the surrounding areas.<sup>1562</sup>

839. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 5, Pillage:

- (i) On 15 February 1998, OC Bundu was forced to go to his house by Kamajors under the leadership of Nallo, Agbamu Murray and John Ngombeh. The Kamajors took ammunition which they found in OC Bundu's house.
- (ii) On 15 February 1998, Kamajors under the control of TF2-017 looted MB Sesay's hotel on Sewa Road.
- (iii) On 15 February 1998, Kamajors under command of TF2-017 looted medicine from two pharmacies in Bo.
- (iv) On 16 February 1998, on the order of Kamajor leaders including Agbamu Murray, TF2-001 was searched; the Kamajors took his watch and 15,000 leones.

<sup>1561</sup> The Chamber notes that while the Indictment charges "unlawful taking and destruction by burning of civilian-owned property" burning does not constitute the offence of pillage. See the section on Applicable Law for further discussion of this point.

<sup>1562</sup> Indictment, para. 27.

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840. The Chamber has examined the facts surrounding each incident set out above in points (i)-(iv) and concludes that all of the perpetrators of these acts were Kamajors under the effective control of Fofana. The Chamber reiterates that the Kamajors entered Bo on 15 February 1998. Acts (i) through (iv), described immediately above, all occurred on the day the Kamajors entered Bo or on the day immediately following the capture of Bo. The Chamber recalls its findings that OC Bundu and TF2-001 were targeted by the Kamajors because of their status as police officers, a group the Kamajors considered to have collaborated with the juntas; similarly, the Chamber finds that MB Sesay and TF2-058 were targeted because they were considered collaborators. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all of the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 835(i)-(iv) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. The Chamber is also satisfied that none of the victims were persons taking an active part in the hostilities at the time that the acts described above occurred and, furthermore, that the perpetrators knew that they were not taking an active part in the hostilities.

841. In light of the findings set out above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of pillage as a war crime have been established with respect to the looting of ammunition from OC Bundu's house; the looting of various objects at MB Sesay's hotel; the looting of medicine from two pharmacies; and the looting of TF2-001's watch and money.

3.6.1.3.4. *Count 7: Collective Punishments*

842. The Prosecution alleges that Fofana is individually criminally responsible, pursuant to Article 6(3), for committing the crimes alleged in Counts 1 through 5, including threats to kill, destroy and loot, to punish the civilian population for their support to, or failure to actively resist, the combined RUF/AFRC forces.<sup>1563</sup>

843. The Chamber reiterates that only those acts for which the Accused have been found to bear criminal responsibility under another count of the Indictment may form the basis of criminal

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<sup>1563</sup> Indictment, para. 28.





responsibility for acts of terrorism. In this regard, the Chamber recalls that it has found that Fofana bears criminal responsibility as a superior under Counts 2, 4 and 5 in Bo.

844. The Chamber finds that the evidence adduced proves beyond reasonable doubt that the acts described in paragraph 830 [Count 2], paragraph 835[Count 4] and in paragraph 839[Count 5] were perpetrated with the specific intent to punish the civilian population in Bo and the surrounding areas.

845. The Chamber is therefore satisfied, in relation to those acts described paragraph 830 [Count 2], paragraph 835[Count 4] and in paragraph 839 [Count 5], that both the general requirements of war crimes and the specific elements of collective punishments have been proved beyond reasonable doubt with respect to each incident.

#### 3.6.1.4. Conclusion

846. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Fofana is individually criminally responsible as a superior, pursuant to Article 6(3), for the crimes committed in Bo District as found under Counts 2, 4, 5 and 7 above.

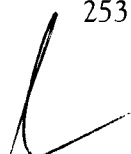
#### 3.6.2. Responsibility of Kondewa

##### 3.6.2.1. Responsibility pursuant to Article 6(1)

847. The Chamber reiterates that Kondewa's speech at the passing out parade in early January 1998 does not constitute instigating the commission of the criminal acts by Kamajors which the Chamber found were committed in Bo District during the time frame charged in the Indictment. The Chamber also reiterates that this speech as well as the provision of the medicine by Kondewa, does not establish beyond reasonable doubt that Kondewa aided and abetted in the planning, preparation or execution of those criminal acts.

848. The Chamber finds that although Kondewa was present at the subsequent commanders' meeting where the attack on Bo was planned, this evidence does not establish beyond reasonable doubt that Kondewa planned the commission of any of the criminal acts in Bo.

849. The Chamber finds that mere presence by Kondewa at this commanders' meeting at which Norman gave orders to Nallo, James Kaillie, Joseph Lappia and TF2-017 to commit criminal acts



in Bo does not establish beyond reasonable doubt that Kondewa aided and abetted in the planning, preparation or execution of these criminal acts.

850. The Chamber further finds that no evidence has been adduced of Kondewa ordering or physically or otherwise directly perpetrating any of the criminal acts which we found were committed in Bo District during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.


851. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Bo District during the time frame charged in the Indictment.

3.6.2.2. Responsibility pursuant to Article 6(3)

852. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Kondewa is individually criminally responsible as a superior pursuant to Article 6(3) for any of the criminal acts which the Chamber found were committed in Bo District during the time frame charged in the Indictment.

3.6.2.2.1. *Superior-subordinate relationship*

853. We find that Kondewa had no superior-subordinate relationship with any of the Kamajors involved in the commission of criminal acts in Bo District. Although he possessed command over all the Kamajors from every part of the country, this was, however, limited to the Kamajors' belief in mystical powers which Kondewa allegedly possessed. This evidence is inconclusive, however, to establish beyond reasonable doubt that Kondewa had an effective control over the Kamajors, in a sense that he had the material ability to prevent or punish them for their criminal acts. The



Chamber noted that Kondewa's *de jure* status as High Priest of the CDF gave him the authority over all the initiators in the country as well as put him in charge of the initiations. This authority did not give him the power to decide who should be deployed to go to the war front. He also never went to the war front himself. The evidence adduced, therefore, has not established beyond reasonable doubt that Kondewa had any superior-subordinate relationship with the Kamajors who operated in Bo District.

854. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to any of the criminal acts which the Chamber found were committed by Kamajors in Bo District during the time frame charged in the Indictment.

#### 3.6.2.3. Conclusion

855. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to either Article 6(1) or 6(3) for any of the criminal acts which the Chamber found were committed in Bo District during the time frame charged in the Indictment.

#### 3.7. Bonthe District

856. In addition to the facts, listed in paragraphs 721 (i) to (viii) and 765 (i) to (iii) above, the Chamber outlines below the facts as found in Sections V.2.2, V.2.6.2 and V.2.6.3 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa:

- (i) On 16 August 1997, a delegation from Bonthe Town was sent to Kondewa at the Kamajor base at Tihun Sogbini to discuss the continuing harassment of civilians by soldiers and the security of the island. Kondewa was considered the supreme head of Kamajors.
- (ii) At Momaya Kamajors were shooting all around the delegation and threatening them. Kamajor Commander Sheku Kaillie ("Bombowai") pleaded on the delegation's behalf and led them, under his protection, to Kondewa, who by then was no longer in Tihun but in Talia. From Mattru Jong the delegation was led to Talia by Ngobeh, the district grand Kamajor commander.

- (iii) The delegation arrived at Kondewa's house in Talia on 24 August 1997. A boy was playing guitar and percussion and singing about the greatness of Kondewa and the Kamajor society. Kamajors armed with rifles and guns were guarding the house. The delegation explained to Kondewa the dreadful effects of the war. In response Kondewa stated: "war means to know that you will die; to know that you have no control over your life; to know that you have no dignity; to know that your property is not yours". Kondewa then called a meeting at the Court Barri that was attended by all of the elders of the region, the paramount chiefs and Kamajor commanders. Kondewa said at the meeting that he was not going to give any of the areas under his control to a military government but to the democratically elected Government of President Ahmad Tejan Kabbah. Kondewa agreed on the cessation of hostilities between the Kamajors and the Soldiers, the stopping of the harassment of civilians and the free movement of boats, and wrote a letter to this effect to all Kamajor commanders around Bonthe. The agreement did not work.
- (iv) The delegation accompanied by Ngobeh was stopped in Tihun by a Kamajor who presented a letter, which he demanded to be read in the presence of Kondewa. The letter was written by a commander from Gambia and was accusing the delegation of bringing the soldiers to Bonthe. When the letter was read to Kondewa in Talia, he declared that if the information was true, all of the delegation would be killed; if it was not true, those responsible for the lie would experience a terrible death. In Gambia Kondewa ordered a court sitting and placed Pa Lewis, Ngobeh and Bombowai in charge of the investigation. Those responsible for the letter pleaded guilty. They were supposed to be killed, but the delegation pleaded with Kondewa to spare their lives and he agreed.
- (v) The Kamajors operating in Bonthe were of the Shebro tribe and were referred to as the Kassilla Battalion. Baigeh was the Battalion Commander of the Kassilla Battalion.
- (vi) On 15 February 1998 a group of approximately 300 to 500 Kamajors entered Bonthe. The Kamajors came from three chiefdoms, including Sittia and Nongoba Bullom.
- (vii) From 15 February 1998, Bonthe Town was under the control of the Kamajors, headed by the District Battalion Commander, Morie Jusu Kamara. Commander Julius Squire was the second in command to Morie Jusu Kamara and was from Bendu Cha.
- (viii) On 16 February 1998 Kamajors announced a meeting at the St. Patrick Parish's Compound. Morie Jusu Kamara, was present at the meeting together with Commander Julius Squire, the secretary and spokesman for the meeting.

- (ix) Although Morie Jusu was a disciplinarian "in his own right", he did not punish his Kamajors. He promised that that no one else would be killed in Bonthe but demanded money from the civilians.
- (x) On 15 February, Kamajors looked for Lahai Ndokoi Koroma, a Chiefdom Speaker, in the Catholic mission who was accused of being a junta collaborator. They threatened to kill everyone if they did not produce this person. Two delegations were sent to Bonthe from Base Zero under Kondewa's instructions. On 1 March 1998, a third group of Kamajors came to Bonthe under the leadership of Kondewa. At a public meeting Kondewa said that he had not allowed his men to enter Bonthe, but that they had not listened to his advice and had done what they had done. Kondewa apologized on their behalf. Kondewa also told those assembled that they should forget about ECOMOG, as they were not responsible for Bonthe. Kondewa said that it was the Kamajors who were responsible for security in the area. He told Father Garrick that he was aware of the atrocities committed by the Kamajors and for this reason he wanted to get Lahai Ndokoi Koroma out of the country. After getting paid 600,000 leones Kondewa took Lahai Ndokoi Koroma to Talia and later to Bo. Only Kondewa had authority to release Lahai Koroma and claimed to kill without restraint and to send people to Mecca.
- (xi) Around 23 February 1998, Norman, accompanied by two ECOMOG officials, came to Bonthe. At a public meeting at the Bonthe town hall Norman said that any complaint against the Kamajors was useless as they had fought and saved the nation and that working with the Kamajors was like "working with the cutlass".
- (xii) In March 1998 a letter from Solomon Berewa addressed to the Kamajors in Bonthe requesting them to stop looting and killing, was given to Commander Morie Jusu Kamara, who passed it on to his second in command, Julius Squire. Julius Squire said that he did not recognise the authority of the Attorney-General; he refused to accept the instructions in the letter, unless they came from Norman or Kondewa. Morie Jusu Kamara told Father Garrick that he was not able to control the Kamajors.

### 3.7.1. Responsibility of Fofana

#### 3.7.1.1. Responsibility pursuant to Article 6(1)

857. The Chamber finds that it is a reasonable inference that the order to attack Bonthe Town was included in the instructions given by Norman at the passing out parade held at Base Zero in early January 1998, when he ordered to launch an "all-out offensive" in all the areas occupied by the juntas. This inference can be drawn on the basis of the fact that at the time of the parade Bonthe Town was one of those areas and furthermore because according to the evidence the attack on Bonthe Town took place on the same day as the attack on Bo and Kenema Towns, *i.e.* the 15<sup>th</sup>

of February 1998. However, the Chamber reiterates its earlier finding that Fofana's speech at this particular parade did not constitute instigating or ordering the commission of the criminal acts, or aiding and abetting in the planning, preparation or execution of the criminal acts, which the Chamber found were subsequently committed by Kamajors in Bonthe District.

858. The Chamber further finds that there is no evidence beyond reasonable doubt that Fofana was involved, either directly or otherwise, in the attack on Bonthe Town or in any of the criminal acts, which the Chamber found were committed by Kamajors in Bonthe District during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

859. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Bonthe District during the time frame charged in the Indictment.

#### 3.7.1.2. Responsibility pursuant to Article 6(3)

860. The Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana had a superior-subordinate relationship with any of the Kamajors who operated in Bonthe District and committed criminal acts during and after the attack on Bonthe Town or elsewhere in Bonthe District as found by the Chamber above. The Chamber reiterates its finding above that there was a superior-subordinate relationship between Fofana and Nallo, who at the relevant time was the Director of Operations for the Southern Region, which included Bonthe District, and that Fofana exercised effective control over Nallo, in a sense of having the material ability to prevent Nallo's criminal acts or punish him for these acts.<sup>1564</sup>

<sup>1564</sup> See the Chamber's finding on Fofana's responsibility pursuant to Article 6(3) in Koribondo.

861. The Chamber finds, however, that the evidence adduced has not established beyond reasonable doubt whether there was a superior-subordinate relationship between Nallo and the Kamajors who operated in Bonthe District and committed criminal acts during the time frame charged in the Indictment. The evidence has not established beyond reasonable doubt that Nallo exercised effective control over all the Kamajors in Bonthe District. By Nallo's own admission, he could not exercise full or strict control over all of the Kamajors in Southern Region due to their large numbers.

862. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to any of the criminal acts which the Chamber found were committed by Kamajors in Bonthe District during the time frame charged in the Indictment.

#### 3.7.1.3. Conclusion

863. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to either Article 6(1) or 6(3) for any of the criminal acts which the Chamber found were committed in Bonthe District during the time frame charged in the Indictment.

#### 3.7.2. Responsibility of Kondewa

##### 3.7.2.1. Responsibility pursuant to Article 6(1)

864. The Chamber reiterates its earlier finding that Kondewa's conduct at the passing out parade at Base Zero in early January 1998 does not constitute instigating the commission of the criminal acts, or aiding and abetting in the planning, preparation or execution of the criminal acts, which the Chamber found were committed by Kamajors subsequently in Bonthe District.

865. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

866. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Bonthe District during the time frame charged in the Indictment.

3.7.2.2. Responsibility pursuant to Article 6(3)

867. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Kondewa is individually criminally responsible as a superior pursuant to Article 6(3) for any of the criminal acts which the Chamber found were committed in Bonthe District during the time frame charged in the Indictment.

3.7.2.2.1. *Superior-subordinate relationship*

868. We find that on the evidence adduced there was a superior-subordinate relationship between Kondewa and Morie Jusu Kamara, District Battalion commander of Bonthe District, Julius Squire, Kamara's second in command and Kamajor Baigeh, Battalion commander of the Kassilla battalion. Kondewa had authority and control over the actions of these Kamajor commanders and the Kamajors under their immediate command. By virtue of his *de jure* status as High Priest Kondewa and his *de facto* status as a superior to these Kamajors in that District, Kondewa exercised effective control over them. Kondewa had the legal and material ability to issue orders to Kamara, both by reason of his leadership role at Base Zero, being part of the CDF High Command, and the authority he enjoyed in his position as High Priest in Sierra Leone and particularly so in Bonthe District.

869. Kondewa had exercised effective control over Kamajors in Bonthe District since before the establishment of Base Zero, as early as August 1997. As "the supreme head of Kamajors" in the area, the delegation from Bonthe chose to plead with him in order to cease hostilities between the Kamajors and the soldiers, stop the Kamajors from harassing civilians and from attacking Bonthe Town. At that time Kondewa had authority and power to issue oral and written directives to the Kamajors in that area, order investigations for misconduct and hold court hearings. He could threaten the imposition of sanctions of "a terrible death" on the Kamajors, if they lied to him. The

Kamajor commanders, who the delegation met on its way to Talia, all recognised Kondewa's authority. Kondewa himself acknowledged his control over this area as he publicly refused "to give any areas under his control to a military government but to the democratically elected Government of President Ahmad Tejan Kabbah." The authority and power of Kondewa is further demonstrated by the fact that it was only him who could "spare" lives of his own misbehaved Kamajors, to release Lahai Ndokoi, "to kill without restraint and to send people to Mecca".

870. The Chamber finds that Kondewa had both the legal and material ability to prevent the commission of criminal acts by his subordinate Morie Jusu Kamara and other subordinates and to punish them for those criminal acts.

871. Morie Jusu Kamara was the overall commander for the Bonthe attack. We find that Kamara exercised command over Julius Squire, Baigeh, Rambo Conteh, Lamina Gbokambama as well as the Kamajors under their immediate command. The Kamajors who arrived in Bonthe on 15 February 1998, indeed declared that from then on Bonthe Town was under the control of the Kamajors headed by Morie Jusu Kamara.

872. Finally, the effective control that Kondewa exercised over the Kamajors who operated in Bonthe Town during the attack is further demonstrated by the fact that Morie Jusu Kamara and Julius Squire refused to recognise the authority of the Attorney-General and to accept any instructions, unless they came from Norman or Kondewa.

873. The Chamber finds, however, that there is no evidence from which the Chamber can conclude beyond reasonable doubt that Kondewa did exercise the same degree of control over other Kamajor commanders and fighters who operated in the surrounding areas of Bonthe Town prior to the attack on Bonthe or subsequently.

3.7.2.2.2. *Knew or had reasons to know*

874. Kondewa knew that the attack on Bonthe Town involved the commission of criminal acts by the Kamajors under the command of Morie Jusu Kamara. On the basis of the evidence adduced it is not entirely clear when precisely Kondewa obtained the knowledge that his subordinates in fact were about to commit, were committing or had committed criminal acts.

875. The Chamber is satisfied, however, that Kondewa knew at least as of 15 February 1998, that the Kamajors were looking for Lahai Ndokoi Koroma in Bonthe Town, who was perceived to be a 'collaborator'. Kondewa was informed about it at Base Zero, in response to which he sent two delegations to Bonthe Town under his instructions. Therefore, the Chamber concludes that it has been established beyond reasonable doubt that Kondewa had reasons to know that the Kamajors under his effective control were about to commit or were committing criminal acts in Bonthe District, particularly that they were targeting suspected "collaborators".

876. Furthermore, the Chamber observes that on 1 March 1998, Kondewa came to Bonthe Town himself leading the third delegation. At the meeting held by Kondewa in Bonthe Town on the same day he publicly acknowledged that he had not allowed his men to enter Bonthe, but that they had not listened to his advice and had done what they had done. He also apologized on their behalf. When speaking to Father Garrick on the same day he also admitted that he was aware of the atrocities committed by the Kamajors during the attack and for this reason he wanted to get Lahai Ndokoi Koroma out of the country.

877. The Chamber, therefore, concludes that it has been established beyond reasonable doubt that at this stage Kondewa knew that the Kamajors under his effective control had in fact committed criminal acts in Bonthe District.

878. With respect to Count 7, the Chamber finds that it can reasonably be inferred from all the circumstances that Kondewa knew or had reasons to know that his subordinates were about to commit collective punishments or were committing them or had committed such acts in Bonthe Town.

879. With respect to Count 6, the Chamber finds, however, that while some of the criminal acts which were committed by the Kamajors in Bonthe Town might have been committed with the primary purpose of spreading terror among the civilian population, the Chamber finds on the totality of the evidence adduced that it has not been established beyond reasonable doubt that Kondewa knew or had reasons to know that such acts had been committed by his subordinates for the primary purpose of spreading terror.

3.7.2.2.3. *Measures to prevent or punish*

880. The Chamber finds that Kondewa as a superior had a duty to take necessary and reasonable measures to prevent the commission of the criminal acts by his subordinates or to punish them. His duty to prevent arose from the moment he learnt that his subordinates were about to commit criminal acts. He should have exercised his duty to punish when he learnt that his subordinates did in fact commit criminal acts in Bonthe Town during and subsequently to the attack. He did not properly exercise his duty to prevent the commission of the criminal acts as a superior simply by telling his subordinate Kamajors that they were not allowed to enter Bonthe. His duty was to ensure that an effective mechanism was in place so that his subordinates would in fact comply with his orders. We find that Kondewa did nothing to prevent the commission of these criminal acts nor did he punish his subordinates for other criminal acts once he had been informed that they indeed had committed such other criminal acts. Thus, we find that he failed as a superior in the exercise of his duties to prevent or to punish the commission of the criminal acts by his subordinates.

#### 3.7.2.3. Counts - Bonthe District

881. The Chamber recognises that other criminal acts have been committed by Kamajors in Bonthe District during the time frame relevant to the Indictment. In the Chamber's opinion, having regard to all the evidence adduced, these criminal acts were either not charged in the Indictment or fall outside the time frame of the Indictment or there is no indication that the accused were involved in the commission of these crimes through any of the modes of liability alleged in the Indictment. Therefore, the Chamber will not examine these criminal acts for the purposes of making legal findings on the responsibility of each Accused.

#### 3.7.2.3.1. *Count 2: Murder*

882. The Prosecution alleges that Kondewa is individually criminally responsible, pursuant to Article 6(3), for the unlawful killing of an unknown number of civilians between October 1997 and December 1999 in locations in Bonthe District including Talia (Base Zero), Mobayah, Makose and Bonthe Town.<sup>1565</sup>

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<sup>1565</sup> Indictment, para. 25(f).

883. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 2, Murder:

- (i) On 15 February 1998, Kpana Manso was killed by Beigeh, a Kamajor Commander subordinate to Morie Jusu Kamara.
- (ii) On 16 February 1998, Bendeh Battiana was accused of being a collaborator and was killed by a Kamajor named Rambo Conteh.
- (iii) On 17 February 1998, Abu Conteh was killed at St. Joseph's Secondary School by one of Mori Jusu's Kamajors.
- (iv) In early March 1998, a woman named Jitta was killed by a Kamajor named Beigeh between Sebongie and Bonthe.
- (v) TF2-087's uncle was killed in Gambia Village by Kondewa's deputy Sheku Kallie, after having reported to Kondewa the misconduct of some of his boys.
- (vi) During the same period of time, three pregnant women were killed in Gambia Village by Kondewa's boys before Norman's arrival in Gambia.

884. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i) through (vi) and concludes that all of the perpetrators were Kamajors under the effective control of Kondewa. We find that individuals were intentionally killed; in the majority of these cases they were specifically targeted because of the perpetrator's belief that they were "collaborators" or rebels. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all of the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 883 was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of these incidents, referred to above in paragraph 883, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that they were killed and also that the perpetrator knew that the victims were not taking an active part in the hostilities.

885. In light of the above the Chamber is satisfied that the general requirements of war crimes have been established with respect to each incident described in paragraph 883.

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886. With respect to those incidents described in paragraph 883 (i)-(iv), the Chamber is satisfied that Kamajors under the effective control of Kondewa intentionally caused the deaths of Kpana Manso, Bendeh Battiama, Abu Conteh and a woman named Jitta.

887. The Chamber is therefore satisfied not only that the general requirements of war crimes have been established but also that the specific elements of murder have been established with respect to the killing of Kpana Manso, Bendeh Battiama, Abu Conteh and Jitta.

888. The Chamber finds, however, that the evidence adduced has not established beyond reasonable doubt that the killings described in paragraph 883 (v) and (vi) occurred during the time period set out in the Indictment. The Chamber finds that Kondewa is not guilty with respect to these killings.

3.7.2.3.2. *Count 4: Cruel Treatment*

889. The Prosecution alleges that Kondewa is individually criminally responsible, pursuant to Article 6(3), for the intentional infliction of serious mental harm and serious mental suffering on an unknown number of civilians by his subordinates in Bonthe District. These crimes are alleged to have occurred between November 1997 and December 1999, , through the following acts:

- screening for collaborators;
- unlawfully killing suspected collaborators, often in plain view of friends and relatives;
- illegal arrest and unlawful imprisonment of collaborators;
- the destruction of homes and other buildings;
- looting and threats to unlawfully kill, destroy or loot.<sup>1566</sup>

890. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 4, Cruel Treatment:

- (i) On 15 February 1998, Kamajors captured Lahai Ndokoi Koroma. He was stripped naked and tied; three delegations came from Talia to investigate the matter.

<sup>1566</sup> Indictment, para. 26(b).

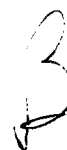
- (ii) On 16 February 1998, at a meeting at St. Patrick's Parish Compound in Bonthe Town, Julius Squire announced that the Kamajors were looking for three collaborators. At the same meeting TF2-116 was singled out and his life was threatened because of alleged collaboration with the juntas.
- (iii) At the same meeting, a boy named Bendeh Battiana was singled out and accused of being a collaborator. He was later killed by Rambo Conteh.
- (iv) In early March 1998, TF2-086 was detained by Kamajors, including Baigeh, along the road between Sebongie and Bonthe. The Kamajors threatened her life, saying, "Look how dead you are."

891. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i)-(ii) concludes that all of the perpetrators of these acts were Kamajors under the effective control of Kondewa. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all of the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 889 (i)-(v) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to in paragraph 889, the Chamber is also satisfied that the victims were persons not taking an active part in the hostilities at the time that the acts described above occurred and, furthermore, that the perpetrators knew that they were not taking an active part in the hostilities.

892. The Chamber finds that, in light of the circumstances under which these events occurred, it is a reasonable inference that the screening for collaborators experienced by Lahai Ndokoi Koroma, TF2-116, Bendeh Battiana and TF2-086 caused serious mental suffering, particularly in the case of TF2-116 and TF2-086, whose lives were threatened at the same time.

893. In light of the findings set out above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of cruel treatment have been established with respect to the incidents described in paragraph 889 (ii)-(v).

894. By contrast, the Chamber finds that the specific elements of the crime of cruel treatment have not been established with respect to paragraph 889 (i), as it has not been proved beyond reasonable doubt that those people whose homes were burnt endured serious mental suffering or injury.



3.7.2.3.3. *Count 5: Pillage*

895. The Prosecution alleges that Kondewa is individually criminally responsible, pursuant to Article 6(3), for the unlawful taking of civilian-owned property between about 1 November 1997 and 1 April 1998.<sup>1567</sup> These crimes are alleged to have occurred at various locations in Bo District, including the towns of Talia (Base Zero), Bonthe Town, Mobayeh and the surrounding areas.<sup>1568</sup>

896. As set out above in the Factual Findings, the Chamber found that the following acts have been committed which are relevant for Count 5, Pillage:

- (i) On 15 February 1998, Lamina Gbokambama and his men looted household items and equipment from a number of locations in Bonthe Town.
- (ii) On 16 February 1998, Julius Squire and his troops looted a house in Bonthe and took 17,900,000 leones from TF2-116's house.
- (iii) In early March 1998, a group of Kamajors including Baigeh took 140,000 leones from TF2-086 and her business partner Jitta on the road between Seborgie and Bonthe.

897. The Chamber has examined the facts and circumstances surrounding each incident set out above in points (i)-(iii) and concludes that all of the perpetrators of these acts were Kamajors under the effective control of Kondewa. The Chamber reiterates that the Kamajors entered Bonthe on the 15<sup>th</sup> of February 1998. Having considered the evidence in the context of the armed conflict that was then taking place in Sierra Leone, and having regard to all of the evidence adduced, the Chamber is satisfied that each of the acts described in paragraph 896 (i)-(iii) was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. Having considered the particular facts and circumstances of each of the incidents referred to in paragraph 896, the Chamber is also satisfied beyond reasonable doubt that the victims were persons not taking an active part in the hostilities at the time that the acts described above occurred and, furthermore, that the perpetrators knew that they were not taking an active part in the hostilities.

<sup>1567</sup> The Chamber notes that while the Indictment charges "unlawful taking and destruction by burning of civilian-owned property" burning does not constitute the offence of pillage. See the section on Applicable Law for further discussion of this point.

<sup>1568</sup> Indictment, para. 27.

898. In light of the findings set out above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of pillage as a war crime have been established with respect of the criminal acts described in paragraph 896 (i)-(iii).

3.7.2.3.4. *Count 7: Collective Punishments*

899. The Prosecution alleges that Kondewa is individually criminally responsible, pursuant to Article 6(3), for committing the crimes alleged in Counts 1 through 5, including threats to kill, destroy and loot, to punish the civilian population for their support to, or failure to actively resist, the combined RUF/AFRC forces.<sup>1569</sup>

900. The Chamber reiterates that only those acts for which the Accused have been found to bear criminal responsibility under another count of the Indictment may form the basis of criminal responsibility for acts of terrorism. In this regard, the Chamber recalls that it has found that Kondewa bears criminal responsibility as a superior under Counts 2, 4 and 5 in Bonthe.

901. The Chamber finds that the evidence adduced proves beyond reasonable doubt that the acts described in paragraph 883 [Count 2] and in paragraph 889 [Count 4] and paragraph 896 [Count 5] were perpetrated with the specific intent to punish the civilian population in Bonthe District.

902. The Chamber is therefore satisfied, in relation to those acts described in paragraph 883 [Count 2] and in paragraph 889 [Count 4] and paragraph 896 [Count 5], that both the general requirements of war crimes and the specific elements of collective punishments have been proved beyond reasonable doubt with respect to each incident.

3.7.2.4. Conclusion

903. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Kondewa is individually criminally responsible as a superior, pursuant to Article 6(3), for the crimes committed by Kamajors in Bonthe Town and the surrounding areas as found under Counts 2, 4, 5 and 7 above.

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<sup>1569</sup> Indictment, para. 28.

### 3.8. Kenema District

904. In addition to the facts, listed in paragraphs 721 (i) to (viii) and 765 (i) to (iii) above, the Chamber outlines below the facts as found in Sections V.2.2, V.2.7.2, V.2.7.3 and 2.7.8 of the Factual Findings, which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa:

- (i) Mohamed Bhonie Koroma, a Battalion Commander, led the attack on SS Camp. Other Kamajors that participated in this attack included Mohamed Swaray, a Battalion Commander from Kenema, Fallah Bindi, a Commander, CO Sahr, a Section CO and Stephen Lahai Fassay. SS Camp was taken approximately one week before Kenema.
- (ii) Mohamed Bhonie Koroma left SS Camp to attack Kenema on 15 February 1998. When he left, Stephen Lahai Fassay replaced him as the Kamajor boss and maintained this position at least until May 1998.
- (iii) Kamajors entered Blama on Sunday, 15 February 1998. Key commanders in this attack included Alhaji Bockarie, Sau Vibbie and Foday Saidu.
- (iv) Kamajors took control of Kenema Town on Sunday, 15 February 1998. Mohamed Bhonie Koroma led the first battalion of Kamajors, which entered Kenema from the direction of SS Camp. Twenty to thirty units from different sections, comprising at least one thousand Kamajors, entered Kenema on the same day.
- (v) ECOMOG arrived in Kenema approximately on 18 February 1998.
- (vi) While at Base Zero Musa Junisa was the Director of Operations for the Eastern Region.
- (vii) In mid-February 1998, TF2-079 and TF2-201 traveled from Base Zero to Bo and Kenema on the orders of Norman to set up a CDF office. At that time the CDF commanders in Kenema were KBK Magonna, Eddie Massallay and Arthur Koroma. George Jambawai, the Regional Coordinator for the Eastern Region became the head of the new administration; TF2-079 was also part of the executive. Jambawai's administration lasted until June 1998. He was succeeded by the District Administrator, Arthur Koroma. During the administration of Arthur Koroma a base was opened at SS Camp where civilians were taken for detention.

#### 3.8.1. Responsibility of Fofana

##### 3.8.1.1. Responsibility pursuant to Article 6(1)

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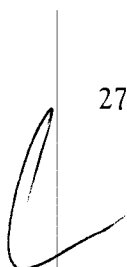
2 August 2007

905. The Chamber finds that it is a reasonable inference that the order to attack Kenema Town was included in the instructions given by Norman at the passing out parade held at Base Zero in early January 1998, when he ordered to launch an "all-out offensive" in all the areas occupied by the juntas. This inference can be drawn on the basis of the fact that at the time of the parade Kenema Town was one of those areas and also because according to the evidence the attack on Kenema Town took place on the same day as the attack on Bo and Bonthe Towns, *i.e.* 15 February 1998. However, the Chamber reiterates its earlier finding that Fofana's speech at this particular parade did not constitute instigating or ordering the commission of the criminal acts, or aiding and abetting in the planning, preparation or execution of the criminal acts, which the Chamber found were subsequently committed by Kamajors in Kenema District.

906. The Chamber further finds that there is no evidence beyond reasonable doubt that Fofana was involved, either directly or otherwise, in the attacks on Kenema Town, SS Camp and Blama or in any of the criminal acts, which the Chamber found were committed by Kamajors during and after the attacks on those locations. The evidence shows that the existence of the plan to capture Kenema was known at Base Zero because Norman then ordered the War Council members to open the CDF office there but this evidence, even considered with the evidence as a whole, is not sufficient to conclude to any individual criminal liability of the accused beyond reasonable doubt.

907. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

908. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Kenema District during the time frame charged in the Indictment.



3.8.1.2. Responsibility pursuant to Article 6(3)

909. The Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana had a superior-subordinate relationship with any of the Kamajors who operated in Kenema District and committed criminal acts during and after the attacks on Kenema Town, SS Camp and Blama as found by the Chamber above. The Chamber found that Musa Junisa was appointed to a position of Director of Operations for the Eastern Region at Base Zero and as such was a *de jure* subordinate of Fofana, the Director of War, in the hierarchical structure of the CDF organisation. However, the evidence adduced has not established beyond reasonable doubt that there was any superior-subordinate relationship, either *de jure* or *de facto*, between Musa Junisa and the Kamajors who operated in Kenema District and committed criminal acts during the time frame charged in the Indictment, such as to conclude that he could or did exercise effective control over those Kamajors.

910. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to any of the criminal acts which the Chamber found were committed by Kamajors in Kenema District during the time frame charged in the Indictment.

3.8.1.3. Conclusion

911. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to either Article 6(1) or 6(3) for any of the criminal acts which the Chamber found were committed in Kenema District during the time frame charged in the Indictment.

3.8.2. Responsibility of Kondewa

3.8.2.1. Responsibility pursuant to Article 6(1)

912. The Chamber reiterates its earlier finding that Kondewa's conduct at the passing out parade at Base Zero in early January 1998 does not constitute instigating the commission of the criminal acts, or aiding and abetting in the planning, preparation or execution of the criminal acts, which the Chamber found were subsequently committed by Kamajors in Kenema District.

913. The Chamber further finds that there is no evidence beyond reasonable doubt that Kondewa was possibly involved, directly or otherwise, in the attacks on Kenema Town, SS Camp and Blama or in any of the criminal acts, which the Chamber found were committed by Kamajors during and after the attacks on those locations. The evidence shows that the existence of the plan to capture Kenema Town was known at Base Zero because Norman then ordered the War Council members to open the CDF office there but this evidence alone is not sufficient to attach individual criminal liability to the accused beyond reasonable doubt.

914. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

915. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Kenema District during the time frame charged in the Indictment.

#### 3.8.2.2. Responsibility pursuant to Article 6(3)

916. The Chamber reiterates its earlier finding that although Kondewa had a *de jure* status as High Priest in the CDF and as such possessed command over all the Kamajors in the country, this was limited to the Kamajors' belief in mystical powers which Kondewa allegedly possessed. This evidence is inconclusive to establish beyond reasonable doubt that Kondewa had an effective control over the Kamajors, in a sense that he had the material ability to prevent or punish them for their criminal acts in Kenema District. The Chamber further finds that the evidence adduced has not established beyond reasonable doubt that Kondewa had any superior-subordinate relationship with any of the Kamajors who operated in Kenema District and committed criminal acts during and after the attacks on Kenema town, SS Camp and Blama as found by the Chamber above.

917. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to the criminal acts which the Chamber found were committed by Kamajors in Kenema District during the time frame charged in the Indictment.

### 3.8.2.3. Conclusion

918. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to either Article 6(1) or 6(3) for any of the criminal acts which the Chamber found were committed in Kenema District during the time frame charged in the Indictment.

### 3.8.3. Counts - Kenema District

919. The Chamber recognises that criminal acts have been committed by Kamajors in Kenema District during the time frame relevant to the Indictment. In the Chamber's opinion, having regard to all the evidence adduced, these criminal acts were either not charged in the Indictment or fall outside the time frame of the Indictment or there is no indication that the accused were involved in the commission of these crimes through any of the modes of liability alleged in the Indictment. Therefore, the Chamber did not examine these criminal acts for the purposes of making legal findings on the responsibility of each Accused.

### 3.9. Talia / Base Zero

920. In addition to the facts, listed in paragraphs 721 (i) to (viii) and 765 (i) to (iii) above, the Chamber outlines below the facts as found in Sections V.2.2 and V.2.8 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa:

- (i) By late 1996 or early 1997 the Kamajors had taken over Talia from the rebels. The first Kamajor leaders who came to Talia were Ngobeh and Joe Tamidey. Kondewa, who was a herbalist, came two weeks later with his priests and was performing initiations in Mokusi. By the time of the coup the Kamajors were also in control of the surrounding villages around Talia.
- (ii) After the coup and before the arrival of Norman to Talia around 15 September 1997, Fofana and Kondewa were both in Talia. Around July-

August 1997 Kondewa was in Tihun performing initiations. At that time Kondewa was considered the supreme head of Kamajors in Bonthe District.

- (iii) Fofana and Kondewa stayed in Talia for the entire period of time of the existence of Base Zero.

921. As set out above in the Factual Findings, the Chamber found that the following criminal acts have been committed in Talia / Base Zero, which the Chamber will consider for the purposes of making its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa in this area:

- (i) TF2-134 was captured by Kamajors and forcefully brought to Talia. She was tied with FM rope and beaten until she vomited blood. She was then kept in a guardroom and released later in the day.
- (ii) TF2-109 was captured by Kamajors along with other women and three men in her village of Mattru Jong and was taken to Talia by Kamajor Kamoh Bonnie. She was held in Talia for three days. The Kamajors also looted her property in Mattru, including furniture, household items and clothing.
- (iii) Sometime towards the end of 1997, two "Town Commanders" were brought to Talia. Kondewa took a gun from Kamoh Bonnie, Kondewa's priest, shot and killed one of the town commanders. The next morning witness saw two graves where the bodies of the two town commanders were buried.
- (iv) TF2-133 was captured and taken to Talia, where she stayed for one month. During that time, TF2-133 saw Kamajors kill her mother in the palm oil plantation.
- (v) TF2-188 and her mother were captured and made to carry loads to Talia. In Talia, Kondewa told his boys to capture TF2-188's mother and kill her. TF2-188 saw the Kamajors kill her mother.
- (vi) During the rainy season of 1997, TF2-189 was captured by Kamajors and taken to Talia. While in Talia, TF2-189's husband was captured, his throat was cut by Kamajors and he was decapitated.
- (vii) Jusu Shalley, Baggie Vaiey and Lahai Lebbie were captured together and brought to Talia. They were killed in front of a large group of Kamajors and civilians. All three men were civilians. Next morning the Kamajors summoned civilians to a parade, which had Norman and Kondewa in attendance.

- (viii) Sometime after 13 February 1998, a surrendered soldier, named Sgt. Kamanda was brought to Talia from Koribondo. Sgt. Kamanda was killed.
- (ix) Kondewa's bodyguards Kafi Jini, Jahman, Junisa and Bokindeh accused TF2-096's friend, who was selling cassava, to be a rebel. Jahman reported TF2-096's friend to Kondewa and she was arrested and taken to Nyandehun. She was held in a cage and was not released until 40,000 leones were paid to Kondewa.
- (x) Sometime between January and March 1998, Mustafa Fallon was killed at the Poro Bush in Talia as part of a Kamajor ritual. Mustafa Fallon was a fighting Kamajor who had been enlisted by Bobor Tucker. Norman, Fofana and Kondewa and many other Kamajors were present.
- (xi) Sometime between December 1997 and January 1998, Alpha Dauda Kanu was killed in the palm oil plantation near Talia as part of a Kamajor ritual. Kanu was one of about 40 Kapras from Gbonkolenken Chiefdom in Tonkolili District who had come to Talia for training. Norman, Fofana and Kondewa approved the killing.
- (xii) A truck carrying cocoa and coffee arrived in Talia. It was unloaded and the contents were given to the Director of War, Fofana and the High Priest, Kondewa. The truck was detained in Talia.

922. The Chamber notes that the allegations advanced by the Prosecution in relation to the alleged crimes in Talia / Base Zero include the following time frames: for Count 2 - between about October 1997 and December 1999, for Count 4 - between November 1997 and December 1999, for Count 5 - between about 1 November 1997 and about 1 April 1998 and for Counts 6 and 7 - as charged in the previous counts. These allegations are particularised in paragraphs 882, 889, 895, 899 above.<sup>1570</sup>

923. The Chamber finds that based upon the evidence adduced in support of the acts listed above under paragraph 921 (i), (iv), (v) and (ix) it cannot conclude beyond reasonable doubt what the timing of the occurrence of these incidents was. The incident described in paragraph 921 (vi) may have occurred any time during "the rainy season of 1997" which could have been between the months of June through September 1997. The Chamber also recalls that Kondewa arrived at Talia by late 1996 or early 1997. Both Kondewa and Fofana were in Talia before the arrival of Norman and the establishment of Base Zero around 15 September 1997. Therefore, the Chamber concludes that the evidence has not established beyond reasonable doubt that the incidents listed

<sup>1570</sup> These allegations are identical for Fofana.

under paragraph 921 (i), (iv), (v), (vi) and (ix) had taken place within the time frame charged in the Indictment.

924. We find that the incident listed under paragraph 921 (viii) involves the killing of “a surrendered soldier” from Koribondo. While the Chamber recognises that this act may have constituted an unlawful killing, it holds that the Prosecution has limited the allegations in Count 2 for Talia / Base Zero to the unlawful killing of “an unknown number of civilians” only and not that of “captured enemy combatants”.<sup>1571</sup>

925. The Chamber further finds that the incidents listed under paragraph 921 (x) and (xi) do not constitute a war crime since both Fallon and Kanu fighters and members of the CDF. Here the Chamber particularly recalls the final position of the Prosecution in respect of these two killings made during their closing arguments as follows:

[T]he best approach is simply to see these two men’s deaths as examples of where the three accused stood in the hierarchy, their ability to do acts without sanction from anyone else. In fact, it demonstrates that they were in absolute control of the CDF. That is, we would say, how the deaths of those two men fit into the Prosecution case.<sup>1572</sup>

### 3.9.1. Responsibility of Fofana

926. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) or 6(3) for the acts listed by the Chamber above under paragraph 921 (ii), (iii), (vii) and (xii).

927. In relation to the acts described under paragraph 921 (ii), (iii) and (vii) above the Chamber finds that the presence of Fofana at Base Zero when these incidents took place is not sufficient by itself to establish beyond reasonable doubt that Fofana had any involvement in the commission of these criminal acts under any of the modes of liability charged in the Indictment.

928. In relation to the incident described under paragraph 921 (xii) the Chamber finds that the fact that a truck was brought to Talia and the contents of it was given to Fofana is not sufficient to establish beyond reasonable doubt that either the truck might have been looted or that Fofana knew or had reasons to know that the truck might have been looted.

<sup>1571</sup> Indictment, para. 25(f).

<sup>1572</sup> Transcript of 28 November 2006, pp. 104-107.

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929. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Talia / Base Zero during the time frame charged in the Indictment.

930. Likewise, the Chamber concludes that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(3) as a superior for any of the criminal acts which the Chamber found were committed in Talia / Base Zero by Kamajors during the time frame charged in the Indictment.

### 3.9.2. Responsibility of Kondewa

931. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) or 6(3) for the incidents listed by the Chamber above under paragraph 921 (ii), (iii), (vii) and (xii).

932. In relation to the incidents described under paragraph 921 (ii) and (vii) above the Chamber finds that the presence of Kondewa at Base Zero when these incidents took place is not in itself sufficient to establish beyond reasonable doubt that Kondewa had any involvement in the commission of these criminal acts under any of the modes of liability charged in the Indictment. On the basis of the evidence adduced it cannot be established beyond reasonable doubt that there existed a superior-subordinate relationship between Kondewa as High Priest and the said Bonnie who was said to be a "Kondewa's priest".<sup>1573</sup>

933. In relation to the incident described under paragraph 921 (xii) the Chamber finds that the fact that a truck was brought to Talia and the contents of it was given to Kondewa is not sufficient to establish beyond reasonable doubt that either the truck might have been looted or that Fofana knew or had reasons to know that the truck might have been looted.

<sup>1573</sup> See paragraph 220 (iii).

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934. The Chamber finds that the incident listed under paragraph 921 (iii) constitutes an intentional killing perpetrated by Kondewa. The Chamber further finds that these two men were killed because they were considered to be “collaborators”, after having been appointed to the position of “Town Commanders” by the rebels, these men organized civilians from their town to assist the rebels. In the context of the widely-held Kamajor belief that anyone who assisted the rebels was a “collaborator”, the Chamber finds that the unlawful killing of the two “Town Commanders” was sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes.

935. In light of the particular facts and circumstances of each of the events referred to above, the Chamber is also satisfied both that neither of the victims was taking an active part in the hostilities at the time that they were killed and, furthermore, finds that Kondewa knew that the victims were not taking an active part in the hostilities.

936. In light of the above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of murder have been established with respect to each incident described in paragraph 921 (iii).

937. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for committing murder as a war crime as charged under Count 2 of the Indictment and as found above.

### 3.10. Moyamba District

### 3.11. Moyamba District

938. In addition to the facts, listed in paragraphs 721 (i) to (viii) and 765 (i) to (iii), (viii) and (ix) and 809 (vi) above, the Chamber outlines below the facts as found in Sections V.2.2 and V.2.9 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa:

- (i) Sometime after August 1997, the Kamajors returned to Moyamba in full strength under the leadership of Mustapha Ngobeh. Kenei Torma was the second-in-command to Mustapha Ngobeh. Sometime after Ngobeh’s death, Torma became the first in command. In late 1997 and early 1998,

Kenei Torma and Chuck Norris were in control of the Kamajors in Moyamba town.

- (ii) Albert J Nallo in late 1997 was the Director of Operations for the Southern Province, which included Moyamba District. In this capacity Albert J Nallo had control over Moyamba District. When Albert J Nallo went to Moyamba Town he learned from Mustapha Ngobeh that four days earlier Abu Bawote, the Commander in the Ribbi area, had killed the Chiefdom Speaker. Mustapha Ngobeh related that he had seen Abu Bawote in Bradford with the severed hand of the Chiefdom Speaker; Bawote had dried the hand and tied to his neck as a necklace. Albert J Nallo reported this incident to Fofana and Norman and told Norman that this Chiefdom Speaker was a collaborator. Norman responded: "Well, a Collaborator deserves that. That was the standing order. You know that was the standing order I passed long ago."

### 3.11.1. Responsibility of Fofana

#### 3.11.1.1. Responsibility pursuant to Article 6(1)

939. The Chamber finds that there is no evidence beyond reasonable doubt that Fofana was possibly involved, directly or otherwise, in the attack on Moyamba town by Kamajors or in any of the criminal acts, which the Chamber found were committed by Kamajors in Moyamba District during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

940. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Moyamba District during the time frame charged in the Indictment.

#### 3.11.1.2. Responsibility pursuant to Article 6(3)

941. The Chamber will now proceed to examine whether the evidence adduced has established beyond reasonable doubt that Fofana is individually criminally responsible as a superior pursuant





to Article 6(3) for any of the criminal acts which the Chamber found were committed in Moyamba District during the time frame charged in the Indictment.

3.11.1.2.1. *Superior-subordinate relationship*

942. The Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana had any direct superior-subordinate relationship with any of the Kamajors who operated in Moyamba District and committed criminal acts as found by the Chamber above during the time frame charged in the Indictment.

943. The Chamber reiterates its finding above that there was a superior-subordinate relationship between Fofana and Nallo, who was Director of Operations for the Southern Region, which included Moyamba District, and that Fofana exercised effective control over Nallo, in a sense of having the material ability to prevent the commission of criminal acts by Nallo or punish him for these acts when he learnt of their commission.<sup>1574</sup> The evidence has established beyond reasonable doubt that this relationship between Fofana and Nallo existed at least from the time of the appointment of Nallo at Base Zero to the position of Deputy National Director of Operations for the CDF and Director of Operations for the Southern Region, until the dissolution of Base Zero. Although the Chamber found that Nallo had control over Moyamba District at least in late 1997, the evidence has not established beyond reasonable doubt that at that time Nallo's control was such as to be considered to be effective over all the Kamajors in Moyamba District. By Nallo's own admission, he could not exercise full or strict control over all of the Kamajors in Southern Region due to their large numbers.

944. In relation to the incident involving the killing of the chiefdom speaker the Chamber finds that the evidence has not established beyond reasonable doubt when exactly the killing took place. Furthermore as we found, the fact that Bawote was seen with a "dried" hand would indicate that the killing had taken place some time earlier but is not sufficient to conclude beyond reasonable doubt as to the timing of the occurrence of this killing. While noting that Nallo was informed of this killing sometime in late 1997, there is no evidence as to the timing of the killing itself. The Chamber takes the view that this evidence has not established beyond reasonable doubt that the

<sup>1574</sup> Finding on 6(3) for Fofana in Koribondo.

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killing took place either within the time frame of the Indictment or at the time when Nallo was in control of Moyamba District.

945. The evidence also does not establish beyond reasonable doubt whether there was any superior-subordinate relationship between Ngobeh and Bawote at the time when Ngobeh saw Bawote with a dried hand. The Chamber further finds that there is no evidence beyond reasonable doubt that the killing of the chiefdom speaker was done by a person who at the time of the commission of the killing was a subordinate of Fofana.

946. The Chamber therefore finds that the evidence adduced has not established beyond reasonable doubt that Fofana had a superior-subordinate relationship with all the Kamajors who operated in Moyamba District and who committed criminal acts as found by the Chamber above during the time frame charged in the Indictment.

947. Since an essential element of a superior responsibility is not established, it is not necessary to examine the other remaining elements with respect to any of the criminal acts which the Chamber found were committed in Moyamba District by the Kamajors during the time frame charged in the Indictment.

#### 3.11.1.3. Conclusion

948. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) or 6(3) for any of the criminal acts which the Chamber found were committed in Moyamba District during the time frame charged in the Indictment.

#### 3.11.2. Responsibility of Kondewa

##### 3.11.2.1. Responsibility pursuant to Article 6(1)

949. The Chamber finds that there is no evidence beyond reasonable doubt that Kondewa was possibly involved, directly or otherwise, in the attack on Moyamba town by Kamajors or in any of the criminal acts, which the Chamber found were committed by Kamajors in Moyamba District during the time frame charged in the Indictment. Although on the basis of the evidence adduced it appears that Norman, Fofana, Kondewa and their subordinates may have acted in concert with each other, we find that there is no evidence upon which to conclude beyond reasonable doubt



that they did so in order to further a common purpose, plan or design to commit criminal acts. There is no evidence proving beyond reasonable doubt such a purpose, plan or design.

950. On the basis of the foregoing the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Kondewa is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of any of the criminal acts which the Chamber found were committed in Moyamba District during the time frame charged in the Indictment.

### 3.11.2.2. Responsibility pursuant to Article 6(3)

951. The Chamber reiterates its earlier finding that although Kondewa had a *de jure* status as High Priest in the CDF and as such possessed command over all the Kamajors in the country, this was limited to the Kamajors' belief in mystical powers which Kondewa allegedly possessed. This evidence is inconclusive to establish beyond reasonable doubt that Kondewa had an effective control over the Kamajors, in a sense that he had the material ability to prevent or punish them for their criminal acts in Moyamba District. The only incident in the Factual Findings made by the Chamber in Moyamba District and which could be attributable to Kondewa for Count 5, Pillage, is set out below as follows:

- (i) In November 1997, Kamajors under the control of Kondewa took TF2-073's Mercedes Benz from his home in Sembehun. The Kamajors said that they were Kondewa's Kamajors and that they had come from Talia, Tihun, Gbangbatoke and other surrounding villages. Three of them introduced themselves as Steven Sowa, Moses Mbalacolor and Mohamed Sankoh. Mohamed Sankoh said he was Deputy Director of War under Norman. The car was eventually given to Kondewa, who kept the car and used it without permission.
- (ii) On the same occasion these Kamajors also took a generator, car tires and other gadgets from TF2-073.

952. The Chamber has examined the facts surrounding each incident set out in both points above and is satisfied that, having regard to all the evidence adduced, each incidence of pillage is sufficiently related to the armed conflict to satisfy the nexus requirement for war crimes. The Chamber further finds, given the circumstances surrounding the occurrence of pillage as set out above, that the victims were persons not taking a direct part in the hostilities at the time of the

commission of the crimes. The Chamber is additionally satisfied that the perpetrator knew that the victims were not taking an active part in the hostilities.

953. In the light of the above, the Chamber is satisfied that both the general requirements of war crimes and the specific elements of pillage have been met with respect to each incident described in paragraph 951.

954. This incident demonstrates that the looting was done by the Kamajors who operated under the direct orders of Kondewa. Kondewa's knowledge that his subordinates committed crimes of pillage can be established on the basis that the looted car was then given to him to be driven around. The Chamber finds that Kondewa not only failed in the exercise of his duties to punish his subordinates for looting, but chose to support their actions by using the looted vehicle himself.

#### 3.11.2.3. Conclusion

955. On the basis of the foregoing, the Chamber finds that it has been proved beyond reasonable doubt that Kondewa is individually criminally responsible as a superior, pursuant to Article 6(3), for pillage as charged under Count 5 on the Indictment and as found by the Chamber above.

#### 3.11.3. Counts - Moyamba District

956. The Chamber recognises that other criminal acts have been committed by Kamajors in Moyamba District during the time frame relevant to the Indictment. In the Chamber's opinion, having regard to all the evidence adduced, these criminal acts were either not charged in the Indictment or fall outside the time frame of the Indictment or there is no indication that the accused were involved in the commission of these crimes through any of the modes of liability alleged in the Indictment. Therefore, the Chamber did not examine these criminal acts for the purposes of making legal findings on the responsibility of each Accused.

#### 3.12. Count 8

957. The Prosecution alleges that Fofana and Kondewa are individually criminally responsible, pursuant to Article 6(1) or 6(3), for enlisting children under the age of 15 years ("child soldiers")

into armed forces or groups or using them to participate actively in hostilities at all times relevant to the Indictment throughout the Republic of Sierra Leone.<sup>1575</sup>

958. In addition to the facts, listed in paragraph 721 (i) to (viii) and 809(i) (iii) above, the Chamber outlines below the facts as found in Sections V.2.2 and V.2.10 of the Factual Findings, upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) and 6(3) of Fofana and Kondewa with respect to Count 8.

- (i) A commanders' meeting was held by Norman after the passing out parade at Base Zero in early January 1998, which had in attendance, among others, Fofana, Kondewa and commanders for the Bo attack. Norman added that the adult fighters were doing less than the children, and just eating and looting.
- (ii) Child fighters were present at various times at Base Zero.

### 3.12.1. Responsibility of Fofana

#### 3.12.1.1. Responsibility pursuant to Article 6(1)

959. The Chamber finds that the evidence adduced has not proved beyond reasonable doubt that Fofana planned, ordered or committed the crime of enlisting child soldiers into an armed group, or using them to participate actively in hostilities.

960. Specifically regarding the commanders' meeting, the Chamber finds that Fofana's mere presence does not demonstrate beyond reasonable doubt that he encouraged anyone to make use of child soldiers. Neither does it demonstrate beyond reasonable doubt that he aided and abetted in the planning, preparation or execution of either the enlistment of child soldiers into the armed forces or the use of child soldiers to participate actively in hostilities anywhere in the Republic of Sierra Leone during the time frame specified in the Indictment.

961. The Chamber further finds that the presence of Fofana at Base Zero where child soldiers were also seen is not sufficient by itself to establish beyond reasonable doubt that Fofana had any involvement in the commission of these criminal acts under any of the modes of liability charged in the Indictment.

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<sup>1575</sup> Indictment, para. 29.

962. The trial record contains ample evidence that the CDF as an organisation was involved in the recruitment of children under the age of 15 to an armed group, and used them to participate actively in hostilities, however this does not demonstrate beyond a reasonable doubt that Fofana was personally involved in such crimes.

963. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(1) for planning, instigating, ordering, committing (including through a joint criminal enterprise) or otherwise aiding and abetting in the planning, preparation or execution of enlistment of child soldiers into armed forces or groups or use of child soldiers to participate actively in hostilities.

#### 3.12.1.2. Responsibility pursuant to Article 6(3)

964. In addition to the facts, listed above in paragraph 958 the Chamber outlines below the fact upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(3) of Fofana with respect to Count 8:

- (i) In February 1998 TF2-140 passed through the town of Koribondo, he saw Joe Tamidey, a Kamajor commander [under the command of Fofana] being guarded by four small boys. The Witness estimated the boys to be younger than he was.

965. TF2-140 was 15 years old when he witnessed this event. The Chamber has accepted the credibility of TF2-140's statement on this event, however there is room for doubt that the boys referred to were actually younger than 15 years of age. It is conceivable that the boys were younger than the witness, but still older than 15 years. It is also conceivable that TF2-140 may have been incorrect in his estimation that the boys were younger than he. Aside from that, the evidence does not establish that Fofana was aware of the situation regarding his subordinate Joe Tamidey. In conclusion, the Chamber finds that the evidence adduced does not prove beyond reasonable doubt the criminal liability of the Accused.

966. The Chamber finds that the evidence adduced does not prove beyond a reasonable doubt that Fofana is individually criminally responsible pursuant to Article 6(3) as a superior for the enlistment or use of child soldiers to participate actively in hostilities anywhere in the Republic of

Sierra Leone during the time frame specified in the Indictment. Proof of knowledge alone is insufficient to establish the individual criminal responsibility of an Accused, and the Chamber is unable to conclude that Fofana's presence alone at this or other such meetings has either a condoning or encouraging effect upon the commission of any crimes by his subordinates relating to the enlistment or use of child soldiers.

### 3.12.1.3. Conclusion

967. On the basis of the foregoing, the Chamber finds that the evidence adduced has not established beyond reasonable doubt that Fofana is individually criminally responsible pursuant to either Article 6(1) or 6(3) for Count 8.

### 3.12.2. Responsibility of Kondewa

#### 3.12.2.1. Responsibility pursuant to Article 6(1)

968. In addition to the facts, listed in paragraph 958 above, the Chamber outlines below the fact upon which it will rely to make its legal findings on the individual criminal responsibility pursuant to Article 6(1) of Kondewa with respect to Count 8:

- (i) TF2-021 was nine years old when he was abducted by rebels. In 1997, when the witness was eleven years old he was captured by Kamajors and forced to carry looted property. The Kamajors subsequently took him to Base Zero for initiation.
- (ii) At Base Zero, the witness was initiated along with around 20 other young boys. Kondewa performed the initiation and told the boys that they would be made powerful for fighting. He gave them a potion to rub on their bodies before going into battle.
- (iii) After receiving training, TF2-021 was sent on his first mission to Masiaka, where he shot a woman in the stomach and left her there on the ground. On subsequent missions, he fought with the Kamajors at Kenema, SS Camp, Joru and Daru. In 1999 TF2-021 was flown by helicopter into Freetown with three other small boys and their commanders where they were given guns and sent to support ECOMOG who were fighting the rebels at Congo Cross.
- (iv) In 1999, when TF2-021 was thirteen years old, he was initiated into the Avondo Society, a group of Kamajors led by Kondewa. He received a certificate (Exhibit 18) which proved his membership in this group. The certificate bears details showing the place of initiation (Bumpeh), the

initiate's name, photograph and age. It also bears Kondewa's name, signature and stamp.

969. The Chamber understands from the evidence that initiation into the Kamajor Society does not necessarily amount to enlistment in an armed force or group.<sup>1576</sup> Some parents put their children through initiation for other reasons. Thus, the Chamber has looked at the details of the actual initiation ceremony, the circumstances surrounding initiation, as well as the subsequent events, to determine whether in fact a child could be said to have been enlisted in an armed force or group.

970. Having considered the evidence outlined above, that during the first initiation of TF2-021 initiates were given potions to rub on their bodies before going into battle, were told that they would be made strong for fighting, were subsequently given military training, and soon afterwards were sent into battle, the evidence is absolutely clear that on this occasion, the initiates had taken the first step in becoming fighters. It is beyond reasonable doubt that Kondewa, in these circumstances, when initiating the boys, was also performing an act analogous to enlisting them for active military service. TF2-021 was eleven years old when Kondewa enlisted him. In the Chamber's view, there can be no mistaking a boy of eleven years old for a boy of fifteen years or older, especially for a man such as Kondewa who regularly performed initiation ceremonies. Kondewa knew or had reason to know that the boy was under fifteen years of age, and too young to be enlisted for military service. Although the Chamber found this evidence entirely sufficient to establish enlistment beyond a reasonable doubt, TF2-021 was given a second initiation, into the Avondo Society, headed by Kondewa himself, when he was thirteen years old. Exhibit 18, dated 10 June 1999, bears Kondewa's signature and stamp of approval and lists the boy's age (incorrectly) as twelve.

971. Thus, the Chamber concludes that this evidence has established beyond reasonable doubt that Kondewa committed the crime of enlisting a child under the age of 15 into an armed force or group.

972. The Indictment charges use of child soldiers as an alternative to enlistment. Therefore, having found that Kondewa is individually criminally responsible for enlisting child soldiers, the

<sup>1576</sup> Expert Witness TF2-EW2 testified that in her belief, initiation was a stepping stone to recruitment as a soldier. Transcript of 16 June 2005, p.17 (CS).

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Chamber need not consider the evidence in relation to their use actively participating in armed hostilities.

3.12.2.2. Responsibility pursuant to Article 6(3)

973. Having found the Accused liable under Article 6(1) if the Statute, the Chamber need not consider the Accused's liability under Article 6(3) of the Statute.

VI. CUMULATIVE CONVICTIONS

1. Applicable Law

974. The issue of cumulative convictions arises when more than one conviction is imposed for the same criminal conduct. The Chamber is of the view that an Accused may only be convicted of multiple criminal convictions under different statutory provisions, but based on the same conduct, "if each statutory provision involved has a materially distinct element not contained in the other. An element is materially distinct from another if it requires proof of a fact not required by the other."<sup>1577</sup> In other words, multiple convictions may only be upheld if both of the provisions require proof of an element that is not required by the other provision. If an additional element is only required for one of the provisions, then the Accused will be convicted on that count, but not on the other count for which no distinct element is required.

2. Findings on Cumulative Convictions

975. For all of the reasons discussed above, the Chamber has found that the elements of the offences of murder (Count 2), cruel treatment (Count 4) and collective punishments (Count 7) have been established against the Fofana and the Kondewa in Tongo District. It has also found that the elements of the offences of murder (Count 2), cruel treatment (Count 4) and collective punishments (Count 7) have been established against the Fofana in Bonthe District, and that the elements of the offences of murder (Count 2), cruel treatment (Count 4), pillage (Count 5) and collective punishments (Count 7) were established against him in Bo. It has also has found that the elements of the offences of murder (Count 2), cruel treatment (Count 4), pillage (Count 5) and collective punishments (Count 7) were established against the Kondewa in Bonthe.

<sup>1577</sup> *Celebici Appeal Judgement*, para. 412. See also: *Prosecutor v. Musema*, ICTR-96-13-A, Judgement (AC), 16 November 2001 [*Musema Appeal Judgement*], paras 361-363; *Naletilic and Martinovic Appeal Judgement*, paras 584-585.

976. Given that the Accused, in some instances, were found liable in each District for collective punishments (Count 7) on the basis of the same underlying conduct for which they were found liable for Counts 2, 4 and 5, the Chamber must consider whether it is possible to convict them both for Counts 2, 4 and 5, as well as for Count 7.

977. The offence of collective punishment under Article 3(b) of the Statute requires two materially distinct elements from those required by Counts 2, 4 and 5. First, the offence of collective punishment requires a specific intent to punish collectively. Second, punishment must be imposed on multiple persons.

978. The Chamber is also of the view that the offences of murder and cruel treatment (under Article 3(a) of the Statute) and pillage (under Article 3(f) of the Statute) have material elements not required by the offence of collective punishment. In the Indictment, the Prosecution has pleaded "punishments" that consist only of crimes enumerated in Counts 1-5. However, the Chamber has held that the term "punishment" for this offence should be understood in its broadest sense, and refers to all types of punishments, not only those imposed by penal law.<sup>1578</sup> Punishment can therefore be imposed collectively by means of a variety of different acts, not all of which are crimes under the Statute. The *actus reus* of the offence of collective punishment therefore does not necessarily include the commission of the *actus reus* of any of the crimes of murder, pillage or cruel treatment. Nor is it required, in order to find liability for collective punishments, that the *mens rea* of any of these offences needs to be satisfied.<sup>1579</sup> The Chamber therefore finds that the material elements for each of these crimes are distinct from those that need to be proved to find liability for the offence of collective punishment. It is therefore permissible, in the Chamber's view, to enter convictions under Count 7 as well as under Counts 2-5 even where the underlying facts for the convictions are the same.

<sup>1578</sup> See para. 181.

<sup>1579</sup> See *Prosecutor v. Brima, Kamara and Kanu*, SCSL04-16-T, Judgement (TC), 20 June 2007, where the Chamber held that it is permissible to convict an accused person for collective punishments under Article 3(b) of the Statute or acts of terrorism under Article 3(d) of the Statute, as well as for underlying crimes such as murder and mutilation (under Article 3(a) of the Statute) or outrages upon personal dignity (under Article 3(e) of the Statute) (para. 2108). See also *Kordic and Cerkez* Appeal Judgement, paras 1041-1043 and *Naletilic and Martinovic* Appeal Judgement, para. 590 where the Appeals Chamber held that it was permissible to convict the accused both for the offence of "persecution" (which also requires a specific intent) as well as for the underlying offences or "murder", "inhumane acts", "torture" and "imprisonment".

## VII. DISPOSITION

FOR THE FOREGOING REASONS, having considered all the evidence along with the arguments of the Parties, the Trial Chamber finds with respect to the Accused, Moinina Fofana, as follows:

Count 1: *Unanimously* - Murder, a Crime against Humanity; **NOT GUILTY**

Count 2: *By a majority, Hon. Justice Bankole Thompson dissenting* - Violence to life, health and physical or mental well-being of persons, in particular murder, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 3: *Unanimously* - Other Inhumane Acts, a Crime Against Humanity; **NOT GUILTY**

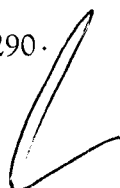
Count 4: *By a majority, Hon. Justice Bankole Thompson dissenting* - Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 5: *By a majority, Hon. Justice Bankole Thompson dissenting* - Pillage, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 6: *Unanimously* - Acts of Terrorism, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **NOT GUILTY**

Count 7: *By a majority, Hon. Justice Bankole Thompson dissenting* - Collective Punishments, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 8: *By a majority, Hon. Justice Benjamin Mutanga Itoe dissenting* - Enlisting children under the age of 15 years into an armed forces or groups or using them to participate actively in hostilities, an other serious violation of international humanitarian law; **NOT GUILTY**



FOR THE FOREGOING REASONS, having considered all the evidence along with the arguments of the Parties, the Trial Chamber finds with respect to the Accused, Allieu Kondewa, as follows:

Count 1: *Unanimously* - Murder, a Crime against Humanity; **NOT GUILTY**

Count 2: *By a majority, Hon. Justice Bankole Thompson dissenting* - Violence to life, health and physical or mental well-being of persons, in particular murder, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 3: *Unanimously* - Other Inhumane Acts, a Crime Against Humanity; **NOT GUILTY**

Count 4: *By a majority, Hon. Justice Bankole Thompson dissenting* - Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

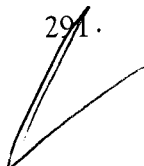
Count 5: *By a majority, Hon. Justice Bankole Thompson dissenting* - Pillage, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 6: *Unanimously* - Acts of Terrorism, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **NOT GUILTY**

Count 7: *By a majority, Hon. Justice Bankole Thompson dissenting* - Collective Punishments, a Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II; **GUILTY**

Count 8: *By a majority, Hon. Justice Bankole Thompson dissenting* - Enlisting children under the age of 15 years into an armed groups and/or using them to participate actively in hostilities, an other serious violation of international humanitarian law; **GUILTY**

For the purposes of clarity in the record, the Chamber would like to summarise its findings as follows: Fofana has been held to be guilty and convicted on Counts 2, 4, 5 and 7 of the Indictment; Kondewa has been held to be guilty and convicted on Counts 2, 4, 5, 7 and 8 of the Indictment.

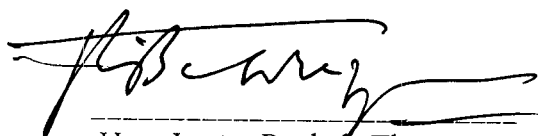


Hon. Justice Benjamin Mutanga Itoe appends his "Separate and Partially Dissenting Opinion Only on Count 8" to the written Judgement;


Hon. Justice Pierre Boutet appends his "Separate Concurring Opinion" to the written Judgement;

Hon. Justice Bankole Thompson appends his "Separate Concurring and Partially Dissenting Opinion" to the written Judgement; Hon. Justice Bankole Thompson acquitting both Accused on all Counts of the Indictment.

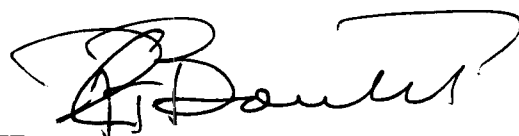
Done in Freetown, Sierra Leone, this 2<sup>nd</sup> day of August 2007.



Hon. Justice Bankole Thompson



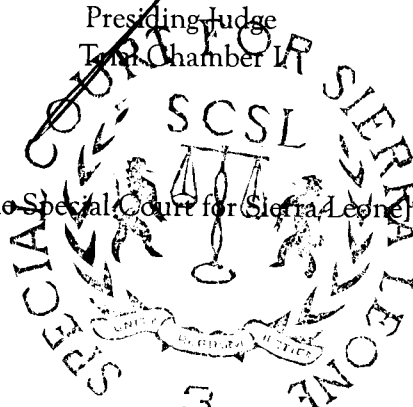
Hon. Justice Benjamin Mutanga Itoe



Hon. Justice Pierre Boutet

Presiding Judge  
Trial Chamber I

[Seal of the Special Court for Sierra Leone]



## LIST OF ANNEXES

- Annex A: Separate and Partially Dissenting Opinion Only on Count 8 of Hon. Justice Benjamin Mutanga Itoe (including attachment)
- Annex B: Separate and Concurring Opinion of Hon. Justice Pierre Boutet
- Annex C: Separate Concurring and Partially Dissenting Opinion of Hon. Justice Bankole Thompson
- Annex D: Consolidated Indictment
- Annex E: Judicially Noted Facts
- Annex F: Procedural History
- Annex G: Table of Authorities
- Annex H: Table of Abbreviations

**ANNEX A - SEPARATE AND PARTIALLY DISSENTING OPINION ONLY ON  
COUNT 8 OF HON. JUSTICE BENJAMIN MUTANGA ITOE, PRESIDING JUDGE  
OF THE CHAMBER ON THE JUDGEMENT OF THE LEARNED JUSTICES OF  
TRIAL CHAMBER I IN THE CASE OF MOININA FOFANA AND ALLIEU  
KONDEWA**

I, Hon. Justice Benjamin Mutanga Itoe, Presiding Judge of Trial Chamber I;

MINDFUL of the Chamber Majority Decision issued this 2<sup>nd</sup> day of August 2007 in this case;

**DO HEREBY ISSUE THE FOLLOWING SEPARATE AND PARTIALLY DISSENTING  
OPINION BUT ONLY ON COUNT 8**

1. The remark I make before submitting this Opinion to the records is that it indeed would not have been necessary if the Chamber were in accord on certain issues which We could not, for a lack of a consensus, agree on.
2. This concerned particularly, the applicability of the notion of circumstantial evidence in International Criminal law and particularly, in the context of the case whose judgement We have just rendered. It relates to determining the liability of the two Accused for offences under Count 8 for the 300 child soldiers under the age of 15 years who Norman, acting on behalf of the CDF, handed over to the DDR programme as CDF former combatants, after negotiations with Child Protection Agencies.
3. The Majority Chamber Opinion was that neither Fofana nor Kondewa could be held criminally responsible under Count 8 for this contingent of 300 child soldiers and that it was only Norman who handed them over, that could have been held responsible for this offence.
4. The other issue of disagreement relates to my perspective which I presented to the Chamber on the basis of the responsibility of the Accused Persons for the serious war crimes and crimes against humanity which they committed even though they state, and rightfully so, that they were fighting to restore President Kabbah and his democratically elected Government to power.
5. This said, may I indicate that my Learned Brothers and my humble self, for the most part, have shared common positions on the benchmarks that have characterised these proceedings and

unanimity excepting on certain issues where each Judge has opted to treat and dispose of a particular issue in the manner that he best conceives and appreciates.

6. I would also like to reiterate here in this Separate Opinion, the fact, as was mentioned in the Introduction of Our Judgement, that I did not and still do not, with all due deference and respect which my Brothers always deserve, agree or accept the deletion of the name of the deceased 1<sup>st</sup> Accused, Samuel Hinga Norman from this Judgement and from other processes relating to this case.

7. For these reasons I would still like to reiterate My Dissenting Opinion which I filed in this regard on the 22<sup>nd</sup> of June, 2007 and for the records, do again attach a record of it to this Separate Concurring Opinion on the Final Judgement in this case that we are delivering today.

8. In our usual judicial traditions however, I consider myself, at this point in time, bound and guided by this majority position which has had the effect of deleting late Samuel Hinga Norman's name from the records and from this decision; a reality which I treat with equal deference, respect and esteem in which I hold my Distinguished Brothers and Colleagues.

#### ENLISTING AND USE OF CHILD SOLDIERS

9. The offence of use of Children under the age of 15 years for combat activities is defined in Article 4(c) of the Statute as follows:

The Special Court shall have power to prosecute persons who committed the following serious violations of international humanitarian law:

- (c) Conscripting or enlisting children under the age of 15 years into armed forces or armed groups or using them to participate actively in hostilities.

10. In the light of the above elements it is clear that Article 4(c), criminalises not only conscripting or enlisting, but also using children under the age of 15 years to participate actively in hostilities. The Chamber will therefore, as far as the concept of use of this category of children is concerned, want to make the following categorisation of acts which amount to active participation in hostilities categories which include:

1. A direct involvement in combat activities in the frontlines by carrying a weapon and using it to exchange fire to the extent that his life or existence is, as a result, exposed to peril and jeopardy.

2. The participation in military activities or duties such as guarding military establishments or equipment belonging to a warring faction in times of hostilities and in the defence of occupied territory or of persons against threats of aggression from enemy forces, either by defending military installations or garrisons; mounting of checkpoints or acting as body guards to Commanders, indeed, being employed to assume roles which place them in a permanent state of alert and readiness for combat.

3. Participation in the transportation to the frontlines, of supplies of a strategic military nature and importance such as arms, ammunitions and other lethal weapons or equipment that are destined for use in sustaining combat activities.

11. In order therefore to prove a charge of using children under the age of 15 years to participate actively in hostilities, I am of the opinion that the elements embodied in any of the categories that I have outlined above, must be established beyond reasonable doubt.

12. From the foregoing analysis and having regard to the statutory provisions of Article 4(c), the conclusion to be drawn here is that the law as it is worded, allows for the participation of children under 15 years of age in activities that do not amount to an 'active participation' in hostilities, in other words activities that are remote from those defined in the three categories that I have outlined.

13. It stands to reason therefore, that a line of demarcation has to be drawn between acts which amount to participating actively in hostilities and those which, even though they may have a semblance of this connection to active participation, are considered as remote from, and not falling under the ambit of the phrase 'active participation in hostilities'. These would include children who are involved in performing in the homes or camps of combatants who are actively involved in hostilities in the frontlines, domesticated jobs of a purely civilian character like cooking, food finding, laundry or running routine errands.

14. I am of the view that even if this could be interpreted to amount to logistic support to a warring faction, it does not attain the threshold of what, in a strict legal sense, is or could be

considered as amounting to an active participation in hostilities. The situation will however, be different if this same child is used by his master, a combatant, to convey combat equipment or weapons to the war front for purposes of his master to sustain the hostilities because such conduct will come under the purview of criminality under Article 4(c) of the Statute.

15. In this regard, it is pertinent to refer to the comments in the *travaux préparatoires* on consultations during the establishment the International Criminal Court where it was said that:

“The word ‘using’ and ‘participate’ have been adopted in order to cover both participation in combat and also active participation in military activities linked to combat such as scouting spying, sabotage and use of children as decoys, couriers or at military check points.”

16. In the light of the potential difficulty in drawing the line and distinction as to when such conduct is culpable or when it is not, a Court would, in such circumstances, only be able to make a determination on a case by case basis and on the strength of the evidence adduced by the Parties.

17. The Chamber recalls here that the Prosecution in Count 8, charges the 3 Accused Persons for initiating or enlisting children under the age of 15 years into armed forces or groups, or in the alternative, for using them to participate actively in hostilities at all times relevant to this indictment<sup>1</sup> which alleges in addition, that they took part in policy, planning and operational decisions of the CDF.<sup>2</sup>

18. The Indictment further alleges that each Accused acted individually and in concert with subordinates, to carry out the said plan, purpose or design<sup>3</sup> and in addition, that the crimes were within a common purpose, plan or design in which each Accused participated,<sup>4</sup> a statement which alleges Accomplice or Co-Accused responsibility or liability under Article 6(1) of the Statute.

19. The Prosecution, in the Indictment,<sup>5</sup> also alleges that the 3 Accused persons knew and approve the use of children under the age of 15 years to participate actively in hostilities and that

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<sup>1</sup> The Indictment, para 29.

<sup>2</sup> The Indictment, para 14.

<sup>3</sup> The Indictment, para 19.

<sup>4</sup> The Indictment, para 20.

<sup>5</sup> The Indictment, para 17.

all Accused acted individually and in concert with subordinates to carry out the said plan, purpose or design.<sup>6</sup>

20. The common purpose here and the design which the Prosecution is imputing on all the Accused for all the Counts charged, and in this particular Count, is to enlist in the armed group of combatants of the CDF Kamajors, children under the age of 15 years, with a view to using them to participate actively in hostilities in order to defeat the combined forces of the RUF and of the AFRC as alleged in paragraph 19 of the Indictment.

21. The Chamber has already defined the specific elements that are required to establish the offence of enlisting as defined in Article 4(c) of the Statute and charged under count 8 of the Indictment and which include:

- (i) The accused enlisted one or more persons into an armed force or into an armed group;
- (ii) Such person or persons were under the age of 15 years;
- (iii) The accused know or had reason to know that such person or persons were under the age of 15 years; and
- (iv) The accused intended to enlist the said persons into the armed force or group.

22. We have also defined the specific elements which are constitutive of the offence of using children under the age of 15 years to participate actively in hostilities as defined in Article 4(c) of the Statute and charged under Count 8 of the Indictment and which include:

- (i) The accused used one or more persons to actively participate in hostilities;
- (ii) Such person or persons were under the age of 15 years;
- (iii) The accused knew or had reason to know that such person or persons were under the age of 15 years; and
- (iv) The accused intended to use the said persons to actively participate in hostilities.

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<sup>6</sup> The Indictment, para 19.

## THE CDF KAMAJOR POLICY OF ENLISTING COMBATANTS

23. Having regard to the evidence that has been adduced by both the Prosecution and the Defence which I consider credible, I find that tradition and policy for the recruitment of combat forces into the CDF armed groups required these fighters called Kamajors, to first of all, to go through the initiation ritual followed by the ritual of immunisation.

24. These rituals which were conducted in Talia and in other locations by the High Priest, Allieu Kondewa, the 3<sup>rd</sup> Accused, were intended, again as confirmed by the evidence adduced by the Parties which I consider credible, to render the Kamajor combatants bullet proof and invulnerable in the course of participating in hostilities or in any combat activities.

25. It is the quest for the acquisition of this combat protection that attracted the influx of thousands of Kamajors and other non initiates on a pilgrimage to Talia to undergo these rituals that in Talia were conducted by the 3<sup>rd</sup> Accused. In fact, before the conflict intensified, initiation and immunisation were distinct rituals, the former proceeding the latter. As the conflict intensified however, the 3<sup>rd</sup> Accused merged the two rituals appear to have been merged. This allowed the 3<sup>rd</sup> Accused to turn out many more immunised Kamajors. It is also revealed in the evidence that there was also at that time, a Military Training Centre which had been created in Talia by the late 1<sup>st</sup> Accused for purposes of training Kamajors. The evidence adduced also reveals that thousands of Kamajors were trained there by one M.S. Dumbuya, a Sierra Leonean Police retiree of what was then known as the Special Security Division (SSD), today known as the Operational Support Division (OSD).

26. In the light of the foregoing, it is my finding that no enlistment children under the age of 15 years into the Kamajor armed group could take place, nor could they be used to participate actively in hostilities, if they were not initiated into the Kamajor society and immunised by the 3<sup>rd</sup> Accused or by any of the other Kamajor Initiators<sup>7</sup> who in hierarchy, were subordinate to the 3<sup>rd</sup> Accused who, for this reason, was referred to as the High Priest.

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<sup>7</sup> Mama Munda Fortune, Siaka Sheriff Mualimu, K. Saddam, Kamara Kaneh Brima, Kamoh Lahai Bangura, Moalem Sessay: Transcript of 22 February 2006, DW Ishmael Koroma, p. 29-35; Transcript of 31 May 2006, Lansana Bockarie, p. 17; Transcript of 10 March 2005, Albert Nallo, p. 9; Transcript of 15 February 2005, TF2-001, pp. 80-85 (CS); Transcript of 10 February 2006, Joe Demby, p. 13

27. I find, based on the evidence that has been adduced, that the culture of the Kamajor Society, like that of any other traditional society or cult, is based on absolute secrecy in their beliefs, their practices, their rituals and their traditional mysticism as manifested by the initiation process itself and the post initiation rituals and laws they would have gone through and were constrained to observe. This was the case in order to conserve the bullet proof armour which they strongly believed was bestowed and mystically clad on them by Kondewa the 3<sup>rd</sup> Accused, through the instrumentality of traditional herbs and the Tevie<sup>8</sup> which were rubbed on their bodies and which, they were very strongly convinced, effectively made them bullet proof. Some Defence Witnesses proudly professed this belief and affirmed that if they survived in combat, it was because the immunisation from bullets.

28. This belief, which I find, featured in the testimony of both Prosecution and Defence witnesses, constituted a strong galvanising force and motivation for the Kamajors to face the enemy bravely in battle and to endure the process with a spiritually motivated and propelled inspiration and determination. There is no doubt in my mind that this psychological belief in their invincibility that they owe to their initiation and immunisation, contributed largely and decisively and to a very considerable extent, to the indomitable morale of Kamajor combatants. They believed in it and were ritually and resolutely committed to it.

29. In a pitched battle at the Congo Cross Bridge in Freetown, between the Kamajors and the Rebels, General Richards who witnessed the combat was so impressed with the bravery and tenacity of the CDF militia, not too well equipped or organised, and wished he could have elements of that calibre of bravery and tenacity in the rank and file of his western and sophisticated army.

#### INITIATION AS AN OFFENCE

30. It is my finding that the Prosecution erred and misconceived the purport of the ritual by alleging and charging initiation as one of the elements of the offence of enlisting as spelt out in Article 4(c) of the Statute, because initiation, per se, which the Chamber characterises as a

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<sup>8</sup> Tevie in Mende means to mark the initiates bodies. The initiator uses the tevie, together with some herbs to mark the bodies of Kamajors joining the society. Transcript of 10 March 2005, Albert Nallo, pp. 25-26.

traditional cult and ritual, does not constitute an offence as defined under the Statute. It would indeed, therefore, be a misconception and a mis-statement of the law to hold otherwise.

31. However, given the processes that were involved in enlisting fighters into the Kamajor CDF armed group for combat, I find that even if initiation did not automatically give rise to enlistment into the CDF Kamajor fighting forces, it provided an evidentiary element and a preparatory stage for purposes of proving the offence of enlistment.

32. As I have already indicated, there was a massive and sustained influx of people from other Chiefdoms to Talia to undergo the ritual of initiation which was being conducted exclusively, as has been said earlier, by the 3<sup>rd</sup> Accused, Allieu Kondewa. From the available evidence, it is clear from the record that every initiate had to pay a fee to Kondewa for this exercise. In fact, the communities were so actively mobilised to undergo the process that wealthy elites had to contribute funds to pay for the initiation of people from their communities.<sup>9</sup>

**WHAT FACTUAL CONCLUSION CAN BE DRAWN FROM THE PROCESS OF INITIATION**

33. The evidence discloses that Kondewa carried out the ritual on thousands of people in ceremonies that he conducted in bush called Mokossi.<sup>10</sup> The Chamber finds as we have indicated earlier, that there was a military training base in Base Zero that was fully operational at the same time that Kondewa was conducting his initiations in Talia. The Chamber has already found that Kondewa, in the presence of the late 1<sup>st</sup> Accused, Norman and the 2<sup>nd</sup> Accused, Moinina Fofana, addressed the assembly of Kamajors who had graduated from their training in Base Zero. Kondewa told them that they had his spiritual benediction to go to war.

**DIRECT EVIDENCE**

34. In view of the secrecy and mythology that characterised Kamajor activities in the enlistment of children under the age of 15 into the armed group of the CDF and or their use by the Accused Persons to participate actively in hostilities, the direct oral evidence to prove Count 8 of the indictment against the 2 remaining Accused Persons is rare. In this regard, the Chamber has been

<sup>9</sup> Transcript of 10 February 2006, Albert Joe Demby, pp. 13-14.

<sup>10</sup> Transcript of 10 March 2005, Albert J Nallo, p. 31.