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SCSL-2003-06-PT-037

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN - SIERRA LEONE**

(518 - 632)

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Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003

THE PROSECUTOR

Against

**ALEX TAMBA BRIMA also known as (aka) TAMBA ALEX BRIMA
Aka GULLIT**

CASE NO. SCSL-2003-06-PT

**DEFENCE MOTION FOR BAIL OR FOR PROVISIONAL RELEASE
Pursuant to Rule 65 of the Rules of Procedure and Evidence of the Special
Court for Sierra Leone**

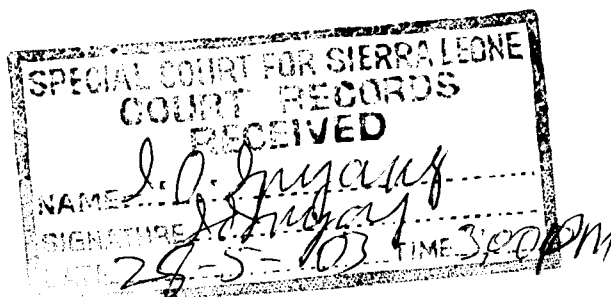
**The ACCUSED, (the applicant herein) TAMBA ALEX BRIMA hereby moves THE
TRIAL CHAMBER by this Motion for an Order that he be admitted to Bail OR be
granted PROVISIONAL RELEASE**

Office of the Prosecutor:

The Prosecutor,
Luc Côté, Chief of Prosecutions
Brenda J. Hollis, Senior Trial Counsel
The Director of Prisons of the Republic of Sierra Leone
The Officer in Charge - Special Court Detention Facility
Centre in Bonthe.
The Hon. Attorney General and Minister of Justice of the
Republic of Sierra Leone

Defence Counsel:

Terence Michael Terry



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1. INTRODUCTION:

In the light of Articles 17 (3), 17 (4) (b) and 17(4) (c) (RIGHTS OF THE ACCUSED) of the Statute of the Special Court for Sierra Leone and pursuant to Rules 54 and 65 (A), 65(B), 65(C) and 65(D) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, Article 9(3) of the International Covenant on Civil and Political Rights 1966 and having regard to Section 17(3) of the 1991 Constitution of Sierra Leone Act No. 6 of 1991, the Defence respectfully submits a Notice of Motion for Bail OR Provisional Release for the Accused Tamba Alex Brima, the Applicant herein.

The Defence further submits that for the purposes of this Motion:-

- (a) The “Defence” means and includes the Accused, the Defence Counsel and their respective Legal Assistants and Staff, and others specifically assigned by the Special Court for Sierra Leone to the Accused’s trial defence team in conformity with Rule 44 of the rules of Procedure and Evidence of the Special Court for Sierra Leone.
- (b) The “Prosecution” means and includes the Prosecutor of the Special Court for Sierra Leone (the Court) and staff members.
- (c) The “Hon. Attorney General and Minister of Justice” means the Attorney General and Minister of Justice of the Republic of Sierra Leone and includes other persons authorized to act in his behalf.

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ARGUMENT

(a) **Statute, Articles & Rules and United Nations Convention:-**

Statutes

- (i) The Constitution of the Republic of Sierra Leone Act No. 6 of 1991 - Section 17(3).
- (ii) The Special Court Agreement, 2002 (Ratification) Act No. 9 of 2002 – Articles 17(3), 17(4)(b) and 17(c).

(Rights of the Accused)

(b) **UNITED NATIONS CONVENTION**

- (1) The International Covenant on Civil and Political rights, 1966

(c) **RULES**

- (i) Rules 54 and 65(A) 65(B) and 65(D) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

FACTUAL BASIS FOR THE MOTION:-

The accused the applicant herein Tamba Alex Brima is currently been detained at the Special Court Detention Facility in Bonthe pursuant to a purported order by way of a Warrant of Arrest granted by Judge Bankole Thompson on the 7th of March 2003 and his trial is presently pending before the Trial Chamber of the Special Court for Sierra Leone for charges relating to Terrorizing the Civilian population and collective punishments, unlawful killings, sexual violence, physical violence, use of child soldiers, Abductions and forced labour, looting and burning and attacks on UNAMSIL Personnel.

The factual basis for this application arose from the present detention of the applicant herein and include among others the following:-

- (1) That the Accused (Applicant) herein Tamba Alex Brima is presently suffering from serious medical problems requiring intensive daily care which he is not getting at his present place of detention. Those medical problems include among others diabetes and hypertension.
- (2) That the Accused herein is having frequent nightmares at the Special Court Detention Facility in Bonthe and that his general health and sight are fast deteriorating and he has not been able to see any eye specialist.

- (3) That the Accused is a married man with a son, and the wife is unemployed and the Accused is the sole breadwinner so the continued detention of the Accused will cause untold suffering to his wife and child financially or otherwise.
- (4) That the continued detention of the Accused is highly prejudicial to him and continues to impair his access to his Counsel and Solicitor regarding his Defence for the ensuing trial proper.
- (5) That the construction works for the Special Court venue for the trial proper is not likely to be completed until early September or even till 2004 and up to that time, the Accused will be undergoing incarceration eventhough the presumption of his innocence is not yet displaced. To buttress this fact reliance will be placed on the CONCORD TIMES NEWS PAPER OF 21st May 2003 – at page 6 – caption “Special Court for Sierra Leone (SCSL) Deadline: 30 May 2003 SCSL Call for Expression of Interest: **Construction of the SCSL Courthouse**”.
- (6) That the Accused will appear for his Trial.
- (7) That the accused will not pose a danger to any victim, witness OR other person.

The Defence thus submits that based on the above seven (7) reasons, the Trial Chamber ought with respect to graciously exercise its discretion to grant the Accused the applicant herein bail OR provisional release pending the hearing and determination of his trial.

Counsel for the Defence will rely on the index of attachment one (1) that is: The affidavit of the Applicant herein Tamba Alex Brima sworn to on the 23rd day of May 2003 at 10:55 o'clock in the forenoon at the Special Court Detention Facility at Bonthe and its attached exhibits; but will particularly rely on the facts deposed to in paragraphs 2 to 34 respectively of the said affidavit.

LEGAL BASIS FOR THE MOTION.

Defence most respectfully submits that a preliminary point of law has to be determined by the Trial Chamber as to whether or not the order of the 7th of March 2003 approving the indictment of the accused herein was valid before it can proceed to consider this Bail OR provisional release application. Assuming that the Trial Chamber comes to the conclusion that the order of the 7th of March 2003 granted by Judge Bankole Thompson was invalid at its inception, null and void and ought properly with respect to be set aside, then it follows that the Bail OR provisional release application becomes merely academic.

Out of an abundance of caution Counsel for the Defence however will now proceed to make the following legal submissions to buttress the application herein for Bail OR provisional release.

APPLICABLE LAW

In so far as Rule 65 itself is concerned a Judge OR the Trial Chamber has a discretion to grant OR refuse Bail.

Rule 65 (A) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone is mandatory in its terms as it expressly states that once detained, an accused shall not be granted bail except upon an order of a Judge OR Trial Chamber. Defence however submits that this is a proper case warranting the grant of an order for bail by a Judge OR the Trial Chamber under the provisions of the said Rule 65(A).

Moreover Defence will rely on Rule 65(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone which expressly states that "Bail may be ordered by a Judge or a Trial Chamber after hearing the state to which the accused seeks to be released and only if it is satisfied that the accused will appear for trial, and, if released, will not pose a danger to any victim, witness or other person." Defence submits that the said Rule 65(B) establishes the relevant criteria that must be satisfied before a Judge OR a Trial Chamber may be authorized to grant bail OR provisional release of an accused pending his trial. The criteria are threefold in all, two of which are substantive and one procedural. They are conjunctive in nature and the burden squarely rests on the Defence, and Counsel for the Defence that that burden has been discharged by the Defence.

Indeed Rule 65(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone is analogous to Rule 65(B) of the International Tribunal for the former Yugoslavia in which the burden squarely rests on the accused to prove both elements envisaged in Rule 65(B) as afore-mentioned though in the International Tribunal for Former Yugoslavia there is the additional requirement of proof of exceptional circumstances. See *The Prosecutor v. Radoslav Brdjanin and Momir Talic*, "Decision on Motion by Radoslav Brdjanin for Provisional Release", Case No. IT – 99-36, 25 July 2000.

Accordingly Defence has served this application on the State of Sierra Leone to enable it to proffer its views on the Bail application as it is the state to which the accused seeks to be released. Notification to that effect is attached herein as Attachment "3". The Defence invites the Trial Chamber OR the Judge of the Special Court to graciously peruse the affidavit of Tamba Alex Brima sworn to on the 23rd day of March 2003 referred to as Attached (1) in support of this application for Bail where he clearly deposed to the fact that he will appear for trial and if released will not pose a danger to any victim, witness or other person.

Defence submits that based on Rule 65(D) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone the Judge OR Trial Chamber has a discretion to impose such conditions upon the granting of bail to the accused as may be determined appropriate, including the execution of a bail bond and the observance of such conditions as are necessary to ensure the presence of the accused at trial and the protection of others.

Counsel submits that this Court has powers to release the accused either unconditionally OR upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date. The essential principle to observe is that if any conditions are to be imposed, they must be such as are directed to ensuring that the applicant does not run away after he has regained his freedom but that he appears for his trial at a later date.

However Defence submits that a determination as to whether Provisional Release is to be granted must be in accord with the Special facts and circumstances of the particular case. See the case of *The Prosecutor v. Simic et. Al.*, Decision on Simo Zaric's Application for Provisional Release, IT-95-9-PT, 4 April 2000.

The Defence in canvassing that the discretion must so be exercised by the Trial Chamber OR Judge under the said Rule 65(D) will draw strength from paragraph 27 in the affidavit of Tamba Alex Brima to buttress the accused application under that said Rule.

The Defence further submits that if the Trial Chamber is inclined to impose conditions and/OR guarantees which the accused is prepared to honour, it need not examine the next level, i.e., the question of proportionality in the narrow sense, balancing inter alia, the weight of the crime and the weight of the suspicion against the period of detention already spent or to be expected.

The accused Tamba Alex Brima has throughout recognized and continues to recognize the authority of the Special Court for Sierra Leone as the only lawful international recognized legal forum up till date where he can properly defend himself and accordingly respond to the said indictment against his person. Moreover, the accused will at all times cooperate fully in all ways with the Special Court for Sierra Leone to vindicate himself and indeed such a commitment is total and for him almost a creed.

Defence further submits that the combined effect of Rule 65(F) and (G) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone have in-built protection. In particular Rule 65(F) provides "That the Trial Chamber may issue a warrant of arrest to secure the presence of an accused who has been granted bail or is for any other reason at large." On the other hand Rule 65(G) provides that "The Prosecutor may appeal a decision to grant bail and in any event of such an appeal, the accused shall remain in custody until the matter of leave is determined by the Judge referred to in Sub-Rule E.

Counsel further submits that a long delay in the prosecution of the accused can operate to wrongfully defeat the fundamental right to a fair hearing within a reasonable time by a Court OR Tribunal as enshrined in Section 23(1) of our 1991 Constitution Act No. 6 of 1991. Indeed the rationale behind the guarantee of a speedy trial particularly in Criminal proceedings is that accused persons who cannot make bail do not languish indeterminably in jail waiting for never ending trials for crimes they may or may not have committed and more so when on the facts of the instant case the prosecution has charged the wrong accused person as attested to by the said indictment ex facie. And furthermore that those who are able to make bail do not have their cases dangling without resolution for eternity.

Furthermore Defence for the accused will rely on Article 9(3) of the International Covenant on Civil and Political Rights, 1966.

Article 9(3) states thus:

Anyone arrested or detained on a Criminal charge shall be brought promptly before a Judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment."

The Defence submits that the continued detention of the Accused is a flagrant violation of the liberty of the Accused and against the principle of presumption of innocence of an Accused person recognized by Article 17 (Rights of the Accused) of the Special Court Agreement 2002 (Ratification) Act No. 9 2002. Furthermore Article 17(3) of the Special Court Agreement 2003 (Ratification) Act No. 9 of 2002 states. "The Accused shall be presumed innocent until proved guilty according to the provisions of the present statute." By Section 17(3) of the Constitution of the Republic of Sierra Leone Act No. 6 of 1991 the presumption of innocence is one of the entrenched provisions of the 1991 Constitution. As at now the Accused is merely charged with offences which are yet to be proved; and in that vane the detention of the Accused will only become lawful if the prosecution can prove their case beyond reasonable doubt.

The defence further submits that the purported Order of the 7th Marcy 2003 which approved the Indictment and the Warrant of Arrest against the accused the applicant herein was bad in law on the following grounds:

1. That the purported Order of 7th March 2003 and/OR Warrant of Arrest on it true reading in substance and in fact did not order the arrest of the Applicant herein Tamba Alex Brima.
2. That even assuming without conceding that the said order of 7th march 2003 on its true reading ordered the arrest of the Applicant, it was not subsequently served on the Applicant herein.
3. The Judge Bankole Thompson lacked jurisdiction and/OR acted in excess of jurisdiction when he proceed to grant his Order of 7th March 2003 which culminated in the approved of the arrest and continued detention of the Accused herein Tamba Alex Brima.
4. That the said Orders of 7th March 2003 by Judge Bankole Thompson were fundamentally flawed exfacie, were made per incuriam and did not satisfy or could not have satisfied the litmus test as envisaged by Rule 47 of the Rules of Procedure and Evidence for the Special Court for Sierra Leone (Part V – Pre-Trial proceedings Section I Indictments) to have warranted the approval of the indictment against the person of the Applicant herein Tamba Alex Brima. Counsel for the Defence will therefore submit that the said Orders which culminated in the continued detention of the Accused amount to a gross violation and most violent

infraction of the Accused (Applicant) Human Right which is fundamental to him; and on this ground without more he be granted bail pending the hearing and determination of the several offences as alleged in the indictment.

ORDERS SOUGHT:-

In the light of the foregoing reasons proffered, the Defence requests the Designated Judge OR the Trial Chamber to issue the following four Orders:

- (1) That the Accused (Applicant) herein Tamba Alex Brima presently detained at the Special Court detention facility at Bonthe be granted bail pending the hearing and determination of his trial at the Special Court for Sierra Leone pursuant to Rule 65(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.
- (2) That further and/OR in the alternative for an Order granting a provisional release of the Accused (Applicant) herein on terms to be set by the Single Judge or Trial Chamber of the Special Court.
- (3) That all necessary and consequential directions be given.
- (4) Any other order or orders as the Judge or Trial Chamber may deem fit and just.

The defence however reserves its right to apply to the Designated judge OR Trial Chamber if it considers it necessary to amend any of the above Orders prayed for on behalf of the Accused (Applicant) herein.

5. **PRAYER:**

1. In view of the foregoing issues, and/OR complaints, the Defence prays that the order of the 7th of March 2003 of Judge Bankole Thompson be set aside OR vacated and for the accused – the applicant herein Tamba Alex Brima to be released forthwith from his present detention at the Special Court Detention Facility in Bonthe or any other place where he is held in detention in the Republic of Sierra Leone.
2. That further and/OR in the alternative that Bail or Provisional Release be granted to the accused – the applicant herein Tamba Alex Brima.

Freetown 23rd day of May, 2003.

Respectfully submitted

Terence M. Terry
Defence for the Accused – the Applicant herein,

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FREETOWN – SIERRA LEONE**

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Designated Judge

Registrar: Robin Vincent

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The Officer in Charge - Special Court Detention Facility
Centre in Bonthe.
The Hon. Attorney General and Minister of Justice of the
Republic of Sierra Leone

Defence Counsel:

Terence Michael Terry

DEFENCE INDEX OF ATTACHMENTS

1. Affidavit of Tamba Alex Brima in support of Defence Motion sworn to at the Special Court Detention Facility in Bonthe on the 23rd day of May 2003 at 10:55 o'clock in the forenoon and its exhibits.
2. Draft Order for Bail
3. Notification to the State of the Republic of Sierra Leone
4. Basic Documents on Human Rights – The International Covenant on Civil and Political Rights 1966
5. Advertisement at page 6 of the Concord Times Newspaper of 21st May, 2003 edition – **Construction of the SCSL Courthouse.**

INDEX OF ATTACHMENTS

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SPECIAL COURT FOR SIERRA LEONE
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Designated Judge

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Against

ALEX TAMBA BRIMA also known as (aka) TAMBA ALEX BRIMA
Aka GULLIT

CASE NO. SCSL-2003-06-PT

AFFIDAVIT IN SUPPORT

I, TAMBA ALEX BRIMA presently detained at the Special Court Detention Facility in Bonthe in the Southern Province of the Republic of Sierra Leone of no occupation make oath and say as follows:-

1. That I am the Applicant herein a citizen of Sierra Leone and I am presently detained at the Special Court Detention Facility in Bonthe in the Southern Province of the Republic of Sierra Leone.

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2. That on the 18th January 2003 I was arrested by police personnel at Johnny Paul Koroma's residence at Juba Hill Freetown and I was made to understand from the Police Officers that my arrest was for an alleged subversive meeting held at the said residence in connection with an alleged shooting incident at the Aureol Tobacco Company compound. Soon after my arrest statement was obtained from me by the arresting officers whose names I cannot now remember in connection with an alleged plot to overthrow the Government of Sierra Leone. That soon after my arrest I was taken to the SSD now OSD Headquarters in Freetown where I was manhandled by SSD Personnel. There I sustained cuts in my mouth and my dentures were broken while being manhandled by one Mr. Raymond England (a white man) attached to the OSD Headquarters in Freetown and a SSD Sergeant John who threatened me with sporadic gun shots. I was also put under gun point by one IMATT Colonel Petrie.
3. That on the 21st day of January 2003 I was taken to the C.I.D. headquarters to the office of Karrow Kamara a C.I.D. personnel where he instructed his junior personnel to reopen my statement and obtain further statement from me. Thereafter the junior personnel started asking me questions in connection with certain members of the defunct AFRC Government. I objected to this line of questioning and stopped responding to questions as soon as they insisted on questioning me on that issue.
4. That soon after I refused answering questions asked by the investigator, I was tortured by Karrow Kamara by him dropping burnt cigarettes on my skin and piercing my skin with a razor blade in order to force me to answer to questions posed to me by his junior personnel.
5. That I know for a fact that answers to most of the questions put to me by the police personnel were recorded by the said personnel in the manner favourable to them but contrary to the exact answers given by me.
6. That after investigating the alleged shooting incident referred to in paragraph (2) of this my affidavit 17 people with whom I was arrested were charged to the Magistrate Court for treason and some were released. I was alone at the Pademba Road Prison until the 7th day of March 2003 when I was taken to the C.I.D. headquarters to be released. I was taken straight to one Mr. Mansaray's office the 3rd in Command at the C.I.D. headquarters Freetown. On arrival I was told by Mr. Mansaray that I have no case to answer but I should find a surety to bail me out. I thereafter sent for my relatives to come and enter a recognisance on my behalf. That whilst awaiting for the arrival of my relatives, Mr. Mansaray instructed one junior C.I.D. personnel to let me sign a document in the form of a bail bond bearing the name Tamba Alex Brima Alias Gullit. I objected to the signing of this document on the ground that it is not common for a suspect to bail himself and secondly that my name is not Alias Gullit. Subsequently I was told by Mr. Mansaray to go down stairs as I have been released and that I have no case to answer on the alleged charge for the offense of treason.
7. That I asked for my exhibits which I left in his possession before I was taken to Pademba Road Prisons. He refused to give them to me but threatened to take me to Pademba Road Prisons if I insist on asking for my exhibits. Thereafter I went down-stairs. Soon after that when I climbed down the stairs from Mr. Mansaray's office, but within the same C.I.D. building at the C.I.D. headquarters Freetown, I was re-arrested at the counter by one C.I.D. personnel - this time around in connection with the death of certain people at Karina in the Bombali District.

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8. That I was subsequently taken to the S.S.D. Camp at Hastings where I was again manhandled by S.S.D. personnel.
 9. That it was after all these tribulations that I was taken to the Special Court Detention Facility in Bonthe and detained there by several police personnel and the officer in charge at the Special Court Detention Facility in Bonthe. That on arrival at the Special Court Detention Facility in Bonthe I was kept in my cell on that day for 24 hours without food or drink and I even had cause to drink my urine and my cell was only reopened after making heavy noise and threatened to commit suicide.
 10. That up until the time that I was taken to and detained at the Special Court Detention Facility in Bonthe and thereafter by a number of Police Officers and Security Personnel, I was never served with the Order of Arrest dated the 7th day of March 2003 of Judge Bankole Thompson granting my arrest nor was I ever served with any Warrant of Arrest pursuant to the said Order of Judge Bankole Thompson OR by any other competent authority to have warranted my detention at the Special Court Detention Facility in Bonthe, and that position in so far as I am concerned remains the same till date.
 11. That the first time I ever set eyes on the aforesaid Order of Arrest of the 7th day of March 2003 granted by Judge Bankole Thompson was when Junior Counsel in the Chambers of my Solicitor and Counsel Osman Keh Kamara visited me at the Special Court Detention Facility in Bonthe on the 11th day of April 2003 and showed me same.
 12. That I herewith exhibit Certified True Copies of:
 - (a) The Indictment against my person.
 - (b) The order of the Judge Bankole Thompson ordering the arrest of my person dated the 7th March 2003.
 - (c) The entire proceedings held before Judge Benjamin Mutanga Itoe dated the Saturday 15th March 2003 and Monday 17th March 2003.
- Referred to as Exhibits "TAB 1", "TAB 2" "TAB 3" & "TAB 4" respectively.
13. That I have been informed by Osman Keh Kamara Esq., Junior Counsel in the Chambers of my Solicitor and Counsel Terence Michael Terry when he visited me at the Special Court Detention Facility in Bonthe on the 11th day of April 2003 and I verily believe that my wife Margaret Brimah has deteriorated in her health from day to day as a result of the fact that I was arrested and detained at the Special Court Detention Facility in Bonthe aforesaid.

14. That I was informed by the said Osman Keh Kamara Esq., at the Special Court Detention Facility in Bonthe and I verily believe that my wife had made it clear to him that my detention at the Special Court Detention Facility in Bonthe is causing untold hardship to my family including the only child of my marriage with her.
15. That I was further also informed by the said Osman Keh Kamara Esq., at the Special Court Detention Facility in Bonthe and I verily believe that my said wife Margaret Brima had informed him that my present detention may very well lead to the breakdown of our marriage and that fact is bound to affect our aforesaid child of our said marriage who is constantly yearning to see me.
16. That I do recall when Osman Keh Kamara Esq., visited me at the Special Court Detention Facility in Bonthe he told me that my wife had informed him that the fact of my detention has left her on the verge of committing suicide on one occasion, but was only saved from doing so when suddenly the only child of our said marriage namely Tamba Alex Brima Jnr. suddenly appeared in her bedroom and shouted I love you Mummy.
17. That I am suffering from serious medical problems requiring intensive daily care which I am not presently getting whilst I am in detention. My medical problems include among others diabetes and hypertension and since my detention my blood pressure has reached unacceptable levels.
18. That I am having frequent nightmares at the detention facility in Bonthe where I am presently detained and my general health and my sight are fast deteriorating, and so far I have not been able to see any eye specialist.
19. That I verily believe that the fact that I have experienced a shock of detention since the 18th day of January 2003 and subsequently I am therefore not now likely to commit an offence whilst on bail - indeed an additional reason why the Single Justice of the Special Court for Sierra Leone should with respect exercise his discretion to grant bail for my release from detention pending the hearing and determination of my trial in the said case intituled The Special Court for Sierra Leone – CASE NO. SCSL – 2003 –06 -I The Prosecutor Against ALEX TAMBA BRIMA, also known as TAMBA ALEX BRIMA also known as GULLIT.
20. That I am informed and advised by my Solicitor and Counsel Terence Michael Terry and I verily believe that rather than refuse to admit me to Bail, the Single Justice of the Special Court for Sierra Leone may in his wisdom graciously consider a variety of measures which might include among others the following namely:-
 - (a) The continued surrender of all my documents presently in the hands of the authorities.
 - (b) For me to remain within the confines of the Capital Freetown Sierra Leone under House Arrest if need be where I will have easy and regular access to my Solicitor and Counsel for the preparation of my Defence both at the Pre-Trial stage and the Trial Proper.

- (c) For me to meet at least once OR twice a week with the Police authorities who will maintain a log book and periodically file a written report confirming my presence on those occasions.
 - (d) That the police be allowed to make occasional, unannounced visits to me to check on me.
 - (e) For me not to have contact in any manner whatsoever with any persons who may testify at my trial proper.
21. That I am a married man and have only one son. My extended family and myself have a home in Kono and nowhere else. I can therefore have no inducement to flee to any other place and I do undertake to attend remands and to stand my trial in the above case at all times.
22. That I am informed and advised by my Solicitor and Counsel Terence Michael Terry and I verily believe that the longer I am detained in prison the more serious is the encroachment on my liberty, and the fact that I have spent approximately 50 days OR thereabout in the Bonthe Special Court Detention Facility can in the very special circumstances of my case be a reason for ordering my release on stringent conditions and terms if this Court OR the Single Justice so deem it fit and proper, having regard particularly to the uncertainty as to the exact time the trial proper in my particular case is likely to commence and the fact that any suggestion OR prediction as to the exact date of final judgment of my above trial proper if that point is ever reached will be purely speculative and in any case may very well linger up to a number of years – indeed an additional reason that ought with respect to tilt the balance warranting the exercise of this Court OR the Single Justice’s discretion admitting me to bail.
23. That it is more likely that I will stand my trial and it is NOT more likely that I will abscond and forfeit my bail.
24. That there is no reasonable likelihood that if I am released on bail I will tamper with witnesses OR interfere with the relevant evidence OR cause such evidence to be suppressed OR distorted.
25. That it will be highly prejudicial for me in all the circumstances to be kept in custody by being denied bail.
26. That if released on bail I guarantee that I will appear for my above trial before the trial chamber of the Special Court for Sierra Leone and further that if released I will definitely not pose a danger to any victim, witness or other person.

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27. That in the event the Single Justice of the Special Court for Sierra Leone is inclined to admit me to bail I will be perfectly prepared to fulfil any conditions he may determine appropriate, including the execution of a Bail bond and the observance of such conditions as are necessary to ensure my presence as the accused at my trial before the Special Court for Sierra Leone and the protection of others.
28. That my Solicitor and Counsel Terence Michael Terry on the 15th day of April 2003 acknowledged service of documents on him which said acknowledgement of service is exhibited hereto by me and marked Exhibit "TAB 5".
29. That I am informed and advised by my Solicitor and Counsel Terence Michael Terry and I verily believe that it is a notorious fact that the construction works for the Special Court for Sierra Leone where my trial proper as the accused person is scheduled to be held is yet to be completed and is not likely to be completed in time for the start and hearing of my trial proper until early August to September 2003 and up to that time I will be held in detention without trial contrary to the letter and spirit of Section 17 sub-section (1) paragraph e & f and subsection (3) (a) & (d) of the 1991 Constitution of Sierra Leone Act No. 6 of 1991 which guarantee me a fair trial within a reasonable time.
30. That my continued detention at the Special Court Detention Facility in Bonthe is highly prejudicial to me as it restricts and continues to impair my access to my Counsel and Solicitor regarding my defence for the ensuing trial proper in the case SCSL 2003-061 the Prosecutor Against Alex Tamba Brima also known as Tamba Alex Brima also known as Gullit.
31. That I am informed by my Solicitor and Counsel Terence Michael Terry and I verily believe that the above-mentioned reasons contained in the above paragraphs 2 to 30 respectively in this my affidavit do disclose exceptional and/OR special circumstances and facts to warrant admitting me to bail.
32. That I most respectfully apply to be admitted to bail and rely on all the foregoing matters and facts deposed to by me in support of all the orders contained and prayed for in this my application.
33. That I am informed and advised by my Counsel and Solicitor Terence Michael Terry and I verily believe that the foregoing facts deposed to by me in this my affidavit when taken separately and/OR cumulatively not only constitute exceptional circumstances but also satisfy the relevant criteria warranting the exercise of the Single Justice OR this Court's discretion to admit me to bail and/OR to grant my provisional release if so inclined at the end of the day to vie for that route, having regard particularly to the interest of justice and the special facts and circumstances of this particular case.

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34. That I make this affidavit in support of the application for me to be admitted to bail by the Single Justice of the Special Court for Sierra Leone OR the Trial Chamber pending the hearing and determination of my trial in the said case intituled The Special Court for Sierra Leone - CASE NO. SCSL - 2003 - 06 - I The Prosecution Against ALEX TAMBA BRIMA, also known as TAMBA ALEX BRIMA also known as GULLIT.

35. That the contents of this affidavit are true to the best of my knowledge information and belief.

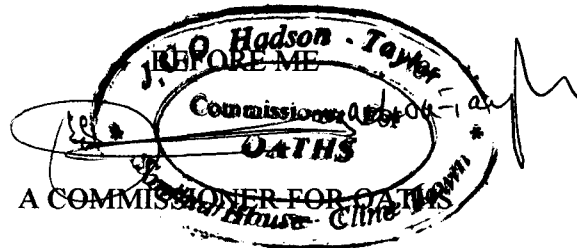
This affidavit was read over and explained to the Deponent Herein Tamba Alex Brima in the Creole language by a Witness interpreter Eagmen Ngaku and he seemed perfectly to understand its contents before affixing his right thumbprint to same.

SWORN TO AT THE SPECIAL COURT
DETENTION FACILITY IN BONTHE IN THE
SOUTHERN PROVINCE OF THE
REPUBLIC OF SIERRA LEONE
ON THE 23rd DAY OF May 2003
AT 10.55 O'CLOCK IN THE fore NOON



DEPONENT

TAMBA ALEX BRIMA



THIS AFFIDAVIT IS FILED BY TERENCE MICHAEL TERRY OF 4TH FLOOR, MARONG HOUSE, 11 CHARLOTTE STREET, FREETOWN SOLICITOR AND COUNSEL FOR AND ON BEHALF OF THE APPLICANT HEREIN.

EXHIBIT "TAB 1"

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**SPECIAL COURT FOR SIERRA LEONE
FREETOWN-SIERRA LEONE**

Before: Judge Bankole Thompson
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003.

THE PROSECUTOR

Against

Alex Tamba Brima also known as (aka) Tamba Alex Brima aka GULLIT

Case No. SCSL – 2003 – 06 – PT

THIS is a Certified True Copy of the Indictment referred to in paragraph (12)(a) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention Facility in Bonthe in the Southern Province of the Republic of Sierra Leone on the 23rd day of May, 2003 and marked Exhibit "TAB 1".

BEFORE ME - Taylor
J.C.O. ~~Commissioner~~ ~~Bara~~ ~~How~~ ~~ay~~
* OATHS *
Sonhad House - Cline Town
A COMMISSIONER FOR OATHS.

EXHIBIT
SCSL-2003-06-I
7 March 2003

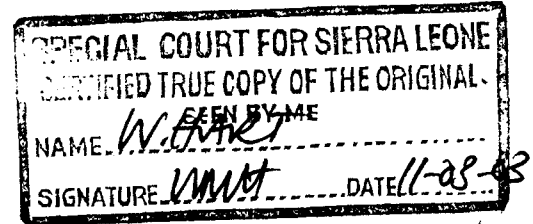
TAB 1
07 MAR 2003 538
17.00 hrs.

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL - 03 - - I

THE PROSECUTOR

Against



OF 14 PAGES.

ALEX TAMBA BRIMA, also known as TAMBA ALEX BRIMA
also known as GULLIT

INDICTMENT

The Prosecutor, Special Court for Sierra Leone, under Article 15 of the Statute of the Special Court for Sierra Leone (the Statute) charges:

ALEX TAMBA BRIMA also known as (aka) TAMBA ALEX BRIMA
aka GULLIT

with **CRIMES AGAINST HUMANITY, VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II and OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW**, in violation of Articles 2, 3 and 4 of the Statute as set forth below:

THE ACCUSED

1. ALEX TAMBA BRIMA aka TAMBA ALEX BRIMA aka GULLIT
(the **ACCUSED**) was born 23 November 1971 at Yaryah Village, Kono District, Republic of Sierra Leone.
2. The **ACCUSED** joined the Sierra Leone Army (SLA) in April 1985 and rose to the rank of Staff Sergeant.

GENERAL ALLEGATIONS

3. At all times relevant to this Indictment, a state of armed conflict existed within Sierra Leone. For the purposes of this Indictment, organized armed factions involved in this conflict included the Revolutionary United Front (RUF), the Civil Defence Forces (CDF) and the Armed Forces Revolutionary Council (AFRC).
4. A nexus existed between the armed conflict and all acts or omissions charged herein as Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and as Other Serious Violations of International Humanitarian Law.
5. The organized armed group that became known as the RUF, led by FODAY SAYBANA SANKOH aka POPAY aka PAPA aka PA, was founded about 1988 or 1989 in Libya. The RUF, under the leadership of FODAY SAYBANA SANKOH, began organized armed operations in Sierra Leone in March 1991. During the ensuing armed conflict, the RUF forces were also referred to as "RUF", "rebels" and "People's Army".
6. The CDF was comprised of Sierra Leonean traditional hunters, including the Kamajors, Gbethis, Kapras, Tamaboros and Donsos. The CDF fought against the RUF and AFRC.
7. On 30 November 1996, in Abidjan, Ivory Coast, FODAY SAYBANA SANKOH and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a peace agreement which brought a temporary cessation to active hostilities. Thereafter, the active hostilities recommenced.
8. The AFRC was founded by members of the Armed Forces of Sierra Leone who seized power from the elected government of the Republic of Sierra Leone via a coup d'état on 25 May 1997. Soldiers of the Sierra Leone Army (SLA) comprised the majority of the AFRC membership. On that date JOHNNY PAUL KOROMA aka JPK became the leader and Chairman of the AFRC. The AFRC forces were also referred to as "Junta", "soldiers", "SLA", and "ex-SLA".
9. Shortly after the AFRC seized power, at the invitation of JOHNNY PAUL KOROMA, and upon the order of FODAY SAYBANA SANKOH, leader of the RUF, the RUF joined with the AFRC. The AFRC and RUF acted jointly thereafter. The AFRC/RUF

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Junta forces (Junta) were also referred to as “Junta”, “rebels”, “soldiers”, “SLA”, “ex-SLA” and “People’s Army”.

10. After the 25 May 1997 coup d’état, a governing body, the Supreme Council, was created within the Junta. The governing body included leaders of both the AFRC and RUF.
11. The Junta was forced from power by forces acting on behalf of the ousted government of President Kabbah about 14 February 1998. President Kabbah’s government returned in March 1998. After the Junta was removed from power the AFRC/RUF alliance continued.
12. On 7 July 1999, in Lomé, Togo, FODAY SAYBANA SANKOH and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a peace agreement. However, active hostilities continued.
13. The **ACCUSED** and all members of the organized armed factions engaged in fighting within Sierra Leone were required to abide by International Humanitarian Law and the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 12 August 1949, and Additional Protocol II to the Geneva Conventions, to which the Republic of Sierra Leone acceded on 21 October 1986.
14. All offences alleged herein were committed within the territory of Sierra Leone after 30 November 1996.
15. All acts and omissions charged herein as Crimes Against Humanity were committed as part of a widespread or systematic attack directed against the civilian population of Sierra Leone.
16. The words civilian or civilian population used in this Indictment refer to persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities.

INDIVIDUAL CRIMINAL RESPONSIBILITY

17. Paragraphs 1 through 16 are incorporated by reference.

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18. At all times relevant to this Indictment, **ALEX TAMBA BRIMA** was a senior member of the AFRC, Junta and AFRC/RUF forces.
19. The **ACCUSED** was a member of the group which staged the coup and ousted the government of President Kabbah. JOHNNY PAUL KOROMA, Chairman and leader of the AFRC, appointed the **ACCUSED** a Public Liaison Officer (PLO) within the AFRC. In addition, the **ACCUSED** was a member of the Junta governing body.
20. Between mid February 1998 and about 30 April 1998, **ALEX TAMBA BRIMA** was in direct command of AFRC/RUF forces in the Kono District. In addition, the **ACCUSED** was in direct command of AFRC/RUF forces which conducted armed operations throughout the northeastern and central areas of the Republic of Sierra Leone, including, but not limited to, attacks on civilians in Bombali District between about May 1998 and 31 July 1998. As of about 22 December 1998, the **ACCUSED** was in command of AFRC/RUF forces which attacked Freetown on 6 January 1999.
21. In the positions referred to in paragraphs 18 through 20, **ALEX TAMBA BRIMA**, individually, or in concert with JOHNNY PAUL KOROMA, FODAY SAYBANA SANKOH, ISSA HASSAN SESAY aka ISSA SESAY, SAM BOCKARIE aka MOSQUITO aka MASKITA, MORRIS KALLON aka BILAI KARIM and/or other superiors in the AFRC, Junta and AFRC/RUF forces, exercised authority, command and control over all subordinate members of the AFRC, Junta and AFRC/RUF forces.
22. At all times relevant to this Indictment, the **ACCUSED**, through his association with the RUF, acted in concert with CHARLES GHANKAY TAYLOR aka CHARLES MACARTHUR DAPKPANA TAYLOR.
23. The AFRC, including the **ACCUSED**, and the RUF shared a common plan, purpose or design (joint criminal enterprise) which was to take any actions necessary to gain and exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas. The natural resources of Sierra Leone, in particular the diamonds, were to be provided to persons outside Sierra Leone in return for assistance in carrying out the joint criminal enterprise.
24. The joint criminal enterprise included gaining and exercising control over the population of Sierra Leone in order to prevent or minimize resistance to their

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geographic control, and to use members of the population to provide support to the members of the joint criminal enterprise. The crimes alleged in this Indictment, including unlawful killings, abductions, forced labour, physical and sexual violence, use of child soldiers, looting and burning of civilian structures, were either actions within the joint criminal enterprise or were a reasonably foreseeable consequence of the joint criminal enterprise.

25. **ALEX TAMBA BRIMA**, by his acts or omissions, is individually criminally responsible pursuant to Article 6.1. of the Statute for the crimes referred to in Articles 2, 3 and 4 of the Statute as alleged in this Indictment, which crimes the **ACCUSED** planned, instigated, ordered, committed or in whose planning, preparation or execution the Accused otherwise aided and abetted, or which crimes were within a joint criminal enterprise in which the **ACCUSED** participated or were a reasonably foreseeable consequence of the joint criminal enterprise in which the **ACCUSED** participated.
26. In addition, or alternatively, pursuant to Article 6.3. of the Statute, **ALEX TAMBA BRIMA**, while holding positions of superior responsibility and exercising effective control over his subordinates, is individually criminally responsible for the crimes referred to in Articles 2, 3 and 4 of the Statute. The **ACCUSED** is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the **ACCUSED** failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

CHARGES

27. Paragraphs 17 through 26 are incorporated by reference.
28. At all times relevant to this Indictment, members of the RUF, AFRC, Junta and/or AFRC/RUF forces (AFRC/RUF), subordinate to and/or acting in concert with **ALEX TAMBA BRIMA**, conducted armed attacks throughout the territory of the Republic of Sierra Leone, including, but not limited, to Bo, Kono, Kenema, Bombali and Kailahun Districts and Freetown. Targets of the armed attacks included civilians and humanitarian assistance personnel and peacekeepers assigned to the United Nations Mission in Sierra Leone (UNAMSIL), which had been created by United Nations Security Council Resolution 1270 (1999).

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29. These attacks were carried out primarily to terrorize the civilian population, but also were used to punish the population for failing to provide sufficient support to the AFRC/RUF, or for allegedly providing support to the Kabbah government or to pro-government forces. The attacks included unlawful killings, physical and sexual violence against civilian men, women and children, abductions and looting and destruction of civilian property. Many civilians saw these crimes committed; others returned to their homes or places of refuge to find the results of these crimes – dead bodies, mutilated victims and looted and burnt property.
30. As part of the campaign of terror and punishment the AFRC/RUF routinely captured and abducted members of the civilian population. Captured women and girls were raped; many of them were abducted and used as sex slaves and as forced labour. Some of these women and girls were held captive for years. Men and boys who were abducted were also used as forced labour; some of them were also held captive for years. Many abducted boys and girls were given combat training and used in active fighting. AFRC/RUF also physically mutilated men, women and children, including amputating their hands or feet and carving “AFRC” and “RUF” on their bodies.

**COUNTS 1 – 2: TERRORIZING THE CIVILIAN POPULATION AND
COLLECTIVE PUNISHMENTS**

31. Members of the AFRC/RUF subordinate to and/or acting in concert with **ALEX TAMBA BRIMA** committed the crimes set forth below in paragraphs 32 through 57 and charged in Counts 3 through 13, as part of a campaign to terrorize the civilian population of the Republic of Sierra Leone, and did terrorize that population. The AFRC/RUF also committed the crimes to punish the civilian population for allegedly supporting the elected government of President Ahmed Tejan Kabbah and factions aligned with that government, or for failing to provide sufficient support to the AFRC/RUF.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

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Count 1: Acts of Terrorism, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.d. of the Statute;

And:

Count 2: Collective Punishments, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.b. of the Statute.

COUNTS 3 – 5: UNLAWFUL KILLINGS

32. Victims were routinely shot, hacked to death and burned to death. Unlawful killings included, but were not limited to, the following:

Bo District

33. Between 1 June 1997 and 30 June 1997, AFRC/RUF attacked Tikonko, Telu, Sembehun, Gerihun and Mamboma, unlawfully killing an unknown number of civilians;

Kenema District

34. Between about 25 May 1997 and about 19 February 1998, in locations including Kenema town, members of AFRC/RUF unlawfully killed an unknown number of civilians;

Kono District

35. About mid February 1998, AFRC/RUF fleeing from Freetown arrived in Kono District. Between about 14 February 1998 and 30 June 1998, members of AFRC/RUF unlawfully killed several hundred civilians in various locations in Kono District, including Koidu, Tombodu, Foindu, Willifeh, Mortema and Biaya;

Bombali District

36. Between about 1 May 1998 and 31 July 1998, in locations including Karina, members of AFRC/RUF unlawfully killed an unknown number of civilians;

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Freetown

37. Between 6 January 1999 and 31 January 1999, AFRC/RUF conducted armed attacks throughout the city of Freetown. These attacks included large scale unlawful killings of civilian men, women and children at locations throughout the city, including the State House, Parliament building, Connaught Hospital, and the Kissy, Fourah Bay, Upgun, Calaba Town and Tower Hill areas of the city.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 3: Extermination, a **CRIME AGAINST HUMANITY**, punishable under Article 2.b. of the Statute;

In addition, or in the alternative:

Count 4: Murder, a **CRIME AGAINST HUMANITY**, punishable under Article 2.a. of the Statute;

In addition, or in the alternative:

Count 5: 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**, punishable under Article 3.a. of the Statute.

COUNTS 6 – 8: SEXUAL VIOLENCE

38. Widespread sexual violence committed against civilian women and girls included brutal rapes, often by multiple rapists. Acts of sexual violence included, but were not limited to, the following:

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Kono District

39. Between about 14 February 1998 and 30 June 1998, members of AFRC/RUF raped hundreds of women and girls at various locations throughout the District, including Koidu, Tombodu, Kissi-town (or Kissi Town), Foendor (or Foendu), Tomendeh, Fokoiya, Wonedu and AFRC/RUF camps such as "Superman camp" and Kissi-town (or Kissi Town) camp. An unknown number of women and girls were abducted from various locations within the District and used as sex slaves;

Bombali District

40. Between about 1 May 1998 and 31 July 1998, members of AFRC/RUF raped an unknown number of women and girls in locations such as Mandaha. In addition, an unknown number of abducted women and girls were used as sex slaves;

Kailahun District

41. At all times relevant to this Indictment, an unknown number of women and girls in various locations in the District were subjected to sexual violence. Many of these victims were captured in other areas of the Republic of Sierra Leone, brought to AFRC/RUF camps in the District, and used as sex slaves;

Freetown

42. Between 6 January 1999 and 31 January 1999, members of AFRC/RUF raped hundreds of women and girls throughout the Freetown area, and abducted hundreds of women and girls and used them as sex slaves.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 6: Rape, a **CRIME AGAINST HUMANITY**, punishable under Article 2.g. of the Statute;

And:

Count 7: Sexual slavery and any other form of sexual violence, a **CRIME AGAINST HUMANITY**, punishable under Article 2.g. of the Statute;

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In addition, or in the alternative:

Count 8: Outrages upon personal dignity, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.e. of the Statute.

COUNTS 9 – 10: PHYSICAL VIOLENCE

43. Widespread physical violence, including mutilations, was committed against civilians. Victims were often brought to a central location where mutilations were carried out. These acts of physical violence included, but were not limited to, the following:

Kono District

44. Between about 14 February 1998 and 30 June 1998, AFRC/RUF mutilated an unknown number of civilians in various locations in the District, including Tombodu, Kaima (or Kayima) and Wonedu. The mutilations included cutting off limbs and carving “AFRC” and “RUF” on the bodies of the civilians;

Freetown

45. Between 6 January 1999 and 31 January 1999, AFRC/RUF mutilated an unknown number of civilian men, women and children in various areas of Freetown, including the northern and eastern areas of the city, and the Kissy area, including the Kissy mental hospital. The mutilations included cutting off limbs.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 9: Violence to life, health and physical or mental well-being of persons, in particular mutilation, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.a. of the Statute;

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In addition, or in the alternative:

Count 10: Other inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Article 2.i. of the Statute.

COUNT 11: USE OF CHILD SOLDIERS

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

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 11: Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, an **OTHER SERIOUS VIOLATION OF INTERNATIONAL HUMANITARIAN LAW**, punishable under Article 4.c. of the Statute.

COUNT 12: ABDUCTIONS AND FORCED LABOUR

47. At all times relevant to this Indictment, AFRC/RUF engaged in widespread and large scale abductions of civilians and use of civilians as forced labour. Forced labour included domestic labour and use as diamond miners. The abductions and forced labour included, but were not limited to, the following:

Kenema District

48. Between about 1 August 1997 and about 31 January 1998, AFRC/RUF forced an unknown number of civilians living in the District to mine for diamonds at Cyborg Pit in Tongo Field;

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Kono District

49. Between about 14 February 1998 and 30 June 1998, AFRC/RUF forces abducted hundreds of civilian men, women and children, and took them to various locations outside the District, or to locations within the District such as AFRC/RUF camps, Tombodu, Koidu, Wondedu, Tomendeh. At these locations the civilians were used as forced labour, including domestic labour and as diamond miners in the Tombodu area;

Bombali District

50. Between about 1 May 1998 and 31 July 1998, in Bombali District, AFRC/RUF abducted an unknown number of civilians and used them as forced labour;

Kailahun District

51. At all times relevant to this Indictment, captured civilian men, women and children were brought to various locations within the District and used as forced labour;

Freetown

52. Between 6 January 1999 and 31 January 1999, in particular as the AFRC/RUF were being driven out of Freetown, the AFRC/RUF abducted hundreds of civilians, including a large number of children, from various areas within Freetown, including Peacock Farm and Calaba Town. These abducted civilians were used as forced labour.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 12: Enslavement, a **CRIME AGAINST HUMANITY**, punishable under Article 2.c. of the Statute.

COUNT 13: LOOTING AND BURNING

53. At all times relevant to this Indictment, AFRC/RUF engaged in widespread unlawful taking and destruction by burning of civilian property. This looting and burning included, but was not limited to, the following:

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Bo District

54. Between 1 June 1997 and 30 June 1997, AFRC/RUF forces looted and burned an unknown number of civilian houses in Telu, Sembehun, Mamboma and Tikonko;

Kono District

55. Between about 14 February 1998 and 30 June 1998, AFRC/RUF engaged in widespread looting and burning in various locations in the District, including Tombodu, Foindu and Yardu Sando, where virtually every home in the village was looted and burned;

Bombali District

56. Between 1 March 1998 and 30 June 1998, AFRC/RUF forces burnt an unknown number of civilian buildings in locations such as Karina;

Freetown

57. Between 6 January 1999 and 31 January 1999, AFRC/RUF forces engaged in widespread looting and burning throughout Freetown. The majority of houses that were destroyed were in the areas of Kissy and eastern Freetown; other locations included the Fourah Bay, Upgun, State House and Pademba Road areas of the city.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 13: Pillage, a VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable under Article 3.f. of the Statute.

COUNTS 14 – 17: ATTACKS ON UNAMSIL PERSONNEL

58. Between about 15 April 2000 and about 15 September 2000, AFRC/RUF engaged in widespread attacks against UNAMSIL peacekeepers and humanitarian assistance workers within the Republic of Sierra Leone, including, but not limited to locations within Bombali, Kailahun, Kambia, Port Loko, and Kono Districts. These attacks

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included unlawful killing of UNAMSIL peacekeepers, and abducting hundreds of peacekeepers and humanitarian assistance workers who were then held hostage.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 14: Intentionally directing attacks against personnel involved in a humanitarian assistance or peacekeeping mission, an **OTHER SERIOUS VIOLATION OF INTERNATIONAL HUMANITARIAN LAW**, punishable under Article 4.b. of the Statute;

In addition, or in the alternative:

Count 15: For the unlawful killings, Murder, a **CRIME AGAINST HUMANITY**, punishable under Article 2.a. of the Statute;

In addition, or in the alternative:

Count 16: 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**, punishable under Article 3.a. of the Statute;

In addition, or in the alternative:

Count 17: For the abductions and holding as hostage, Taking of hostages, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.c. of the Statute.

Dated this 3rd day of March 2003

Freetown, Sierra Leone



David M. Crane

The Prosecutor

EXHIBIT 'TAB 2'

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**SPECIAL COURT FOR SIERRA LEONE
FREETOWN-SIERRA LEONE**

Before: Judge Bankole Thompson
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003.

THE PROSECUTOR

Against

Alex Tamba Brima also known as (aka) Tamba Alex Brima aka GULLIT

Case No. SCSL – 2003 – 06 – PT

THIS is a Certified True Copy of the Order of Jundge Bankole Thompson ordering the arrest of the Applicant herein dated the 7th day of March, 2003 referred to in paragraph (12)(b) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention Facility in Bonthe in the Southern Province of the Republic of Sierra Leone on the 23rd day of May, 2003 and marked Exhibit "TAB 2".

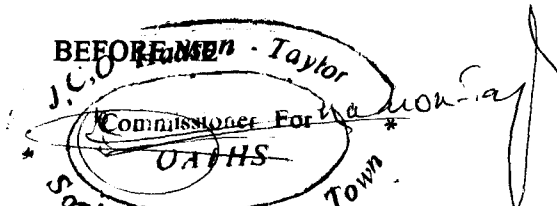

BEFORE ~~J.C. O. Taylor~~ J.C. O. Taylor
Commissioner For the
OATHS
Sonhad House - Cline Town
A COMMISSIONER FOR OATHS.

EXHIBIT TAB 2' 37



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SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

Before: Judge Bankole Thompson

Registry: Mr. Robin Vincent

Decision of: 07 March 2003

THE PROSECUTOR

Against

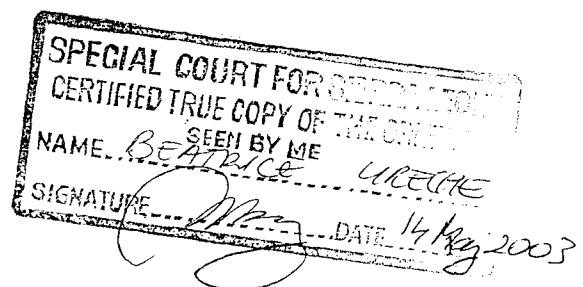
ALEX TAMBA BRIMA also known as TAMBA ALEX BRIMA

also known as GULLIT

CASE NO. SCSL-2003-06-I

**WARRANT OF ARREST AND ORDER FOR TRANSFER
AND DETENTION**

The Office of the Prosecutor:
David Crane
Brenda Hollis



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THE SPECIAL COURT FOR SIERRA LEONE (the "Special Court"),

SITTING AS Judge Thompson, designated by the President of the Special Court according to Rule 28 of the Rules of Procedure and Evidence ("the Rules");

CONSIDERING that the Indictment against ALEX TAMBA BRIMA also known as TAMBA ALEX BRIMA, also known as GULLIT, a citizen of Sierra Leone, born 23 November 1971 at Yaryah Village, Kono District, Republic of Sierra Leone, who is accused of Crimes against Humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other Serious Violations of International Humanitarian Law ("the Accused"); was reviewed and approved by the Special Court on 7 March 2003,

CONSIDERING that an Order for the Non-Disclosure was granted on 7 March 2003;

HEREBY ORDERS THE REGISTRAR OF THE SPECIAL COURT

(A) to address this Warrant of Arrest, Decision Approving the Indictment, the Approved Indictment of the Accused and a Statement of the Rights of the Accused to the national authorities of Sierra Leone in accordance with Rule 55;

(C) to cause to be served on the Accused, at the time of his arrest, or as soon as is practicable immediately following his arrest, in English or have read to him in a language he understands, a certified copy of the Warrant of Arrest, a certified copy of the Indictment, a statement of the rights of the Accused and to caution the Accused that any statement made by him shall be recorded and may be used as evidence against him in coordination with the National Authorities of the State concerned;

(D) to remand the Accused, into the custody of the Special Court Detention Facility or such other Detention Facility as determined by the President in accordance with Rule 57.

HEREBY ORDERS THE RELEVANT AUTHORITIES OF THE GOVERNMENT OF SIERRA LEONE

(A) to transfer the Accused to the custody of the Special Court without delay, or to such other place as the President may decide. The transfer shall be arranged between with the relevant national authorities of the Government of Sierra Leone and the Registrar of the Special Court;

(B) to assist and facilitate the Office of the Prosecutor of the Special Court, at any location, in the search for and seizure of all evidence related to the crimes alleged to have been committed by the Accused;

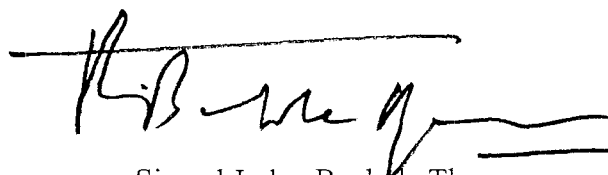
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(C) to identify and locate assets owned by the Accused located within the territory of any State and adopt provisional measures to freeze such assets without prejudice to the rights of third parties;

(D) not to disclose to the public, including the media or any public record, the existence of the Indictment and this Warrant of Arrest, or any part thereof or information pertaining to the Indictment and this Warrant for Arrest until further order of the Court or at the direction of the Prosecutor;

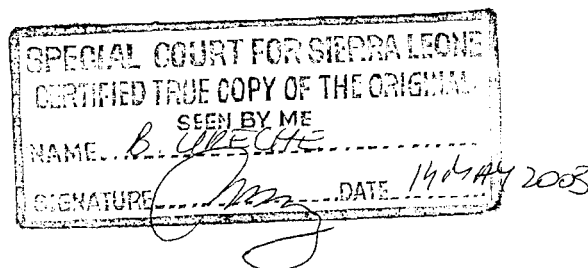
A Member of the Office of the Prosecutor may be present from the time of arrest.

Done in London, this 7th day of March 2003.



Signed Judge Bankole Thompson
Presiding Judge of the Trial Chamber

(Seal of the Special Court)



EXHIBITS 'TAB 3' &
'TAB 4' RESPECTIVELY
SPECIAL COURT FOR SIERRA LEONE
FREETOWN-SIERRA LEONE

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Before: Judge Bankole Thompson
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003.

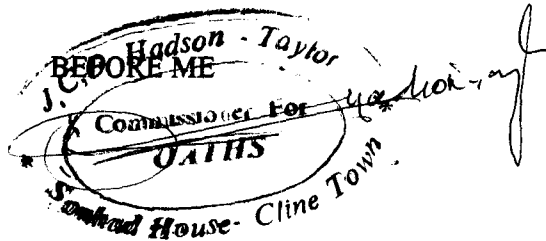
THE PROSECUTOR

Against

Alex Tamba Brima also known as (aka) Tamba Alex Brima aka GULLIT

Case No. SCSL – 2003 – 06 – PT

THIS is a Certified True Copy of the entire proceedings held before Judge Benjamin Mutanga Itoe dated Saturday 15th March, 2003 and Monday 17th March, 2003 respectively referred to in paragraph (12)(c) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention Facility in Bonthe in the Southern Province of the Republic of Sierra Leone on the 23rd day of May, 2003 and marked Exhibits "TAB 3" and "TAB 4" respectively.



A COMMISSIONER FOR OATHS.

EXHIBITS TAB 3 & TAB 4
RESPECTIVELY 2003-06-I

Initial Appearance (Open Session)

Page 1

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(58-94)

THE SPECIAL COURT FOR SIERRA LEONE

Case No. SCSL-2003-06-I

THE PROSECUTOR

- against -

ALEX TAMBA BRIMA,

also known as TAMBA ALEX BRIMA,

also known as GULLIT

Initial Appearance of Alex Tamba Brima

held before Judge Benjamin Mutanga Itoe

on Saturday, 15 March 2003

A P P E A R A N C E S :

Mr. James Johnson,

For the Prosecution

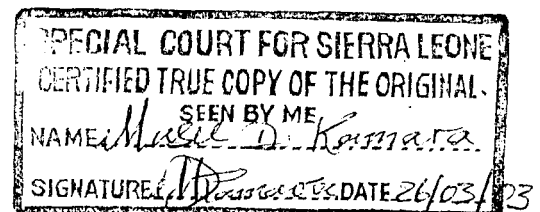
Mr. Nicholas Browne-Marke,

Mrs. Claire Carlton-Hanciles,

For the Defence

Mrs. Haddi Jatou Kah-Jallow,

Mr. Ibrahim Sorie Yillah,



SCSL-2003-06-I

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1 Saturday, 15 March 2003

2 [Initial Appearance of Alex Tamba Brima]

3 [Open session]

4 [The accused entered court]

5 --- Upon commencing at 1:59 p.m.

6 THE REGISTRAR: All rise.

7 JUDGE ITOE: Please be seated. Call the next case, please.

8 THE REGISTRAR: Case number SCSL-06, the Prosecutor against Alex

9 Tamba Brima, also known as Tamba Alex Brima, also known as Gullit.

10 JUDGE ITOE: Yes. Appearances, please.

11 MR. JOHNSON: For the Prosecution, James Johnson and Nicholas

12 Browne-Marke.

13 JUDGE ITOE: Yes, for the Defence.

14 MS. CARLTON-HANCILES: And for the Defence, C.F.

15 Carlton-Hanciles, H. Kah-Jallow, and I.S. Yillah.

16 JUDGE ITOE: Thank you.

17 Please stand.

18 [The accused stands]

19 JUDGE ITOE: Are you Alex Tamba Brima, a.k.a. Tamba Alex Brima,

20 a.k.a. Gullit? Is that your name? Is your name -- what is your name?

21 THE ACCUSED: Tamba Alex Brima. ✓

22 JUDGE ITOE: Tamba Alex Brima.

23 THE ACCUSED: Yes. ✓

24 JUDGE ITOE: And a.k.a. Tamba Alex Brima, a.k.a. Gullit.

25 THE ACCUSED: Not Gullit, Your Lordship. ✓

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1 JUDGE ITOE: This is -- Alex Tamba Brima, this is not a trial
2 process, this is a pre-trial process. Do you understand English? This
3 is a pre-trial process.

4 THE ACCUSED: No, Your Lordship. ✓

5 JUDGE ITOE: Hmm?

6 THE ACCUSED: No, Your Lordship. ✓

7 MS. CARLTON-HANCILES: My Lord, with respect, My Lord, at this
8 stage I make an application for an interpreter for the accused.

9 JUDGE ITOE: For an interpreter.

10 [The interpreter enters court]

11 JUDGE ITOE: Where is he going to? Where are you going to? No
12 one has asked you to come inside here. Take your seat, please.

13 On what basis are you making this application?

14 MS. CARLTON-HANCILES: My Lord, I have actually conferred with
15 the accused before coming to court. My Lord, he will very comfortable if
16 he has the aid of an interpreter.

17 JUDGE ITOE: What is his level of education, if I may ask? You
18 mightn't know maybe, or do you know?

19 MS. CARLTON-HANCILES: My Lord, as much I can say is that even
20 us, as counsel, he's been requesting us to make him go into the lingo of
21 Krio in order to keep --

22 JUDGE ITOE: No, I understand. Okay, your point is taken. I
23 think your application for an interpreter is granted.

24 Are there any interpreters in court?

25 THE REGISTRAR: Yes, My Lord.

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1 JUDGE ITOE: Yes, come.

2 [The interpreter enters court]

3 JUDGE ITOE: The Court has taken note, you know, of his
4 application to have an interpreter, and the Court will rule on this on
5 Monday, Monday the -- Monday, what's the date of Monday? Monday, the
6 17th. So I will take this application on Monday, the 17th, and I'll ask
7 the parties, including the interpreter who has presented himself, or any
8 other, to appear Monday at 10:00.

9 So the matter is adjourned to Monday, 10:00. Explain it to him.
10 No, no, no, don't worry. It's all right. It's no problem. He can take
11 him away. You are not yet sworn in as an interpreter. The matter is
12 adjourned to Monday, the 17th, so he will appear on that day and counsel
13 will look into the proceedings on that day.

14 Matter adjourned.

15 --- Whereupon the Initial Appearance adjourned at
16 2:05 p.m., to be reconvened on Monday, the 17th day
17 of March, 2003.

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THE SPECIAL COURT FOR SIERRA LEONE

Case No. SCSL-2003-06-I

THE PROSECUTOR

- against -

ALEX TAMBA BRIMA,

also known as TAMBA ALEX BRIMA,

also known as GULLIT

Continued Initial Appearance of Alex Tamba Brima
held before Judge Benjamin Mutanga Itoe
on Monday, 17 March 2003

A P P E A R A N C E S :

Mr. James Johnson, For the Prosecution

Mr. Nicholas Browne-Marke,

Mrs. Claire Carlton-Hanciles, For the Defence ✓

Mrs. Haddi Jatou Kah-Jallow,

Mr. Ibrahim Sorie Yillah,

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1 Monday, 17 March 2003
2 [Continued Initial Appearance of Alex Tamba Brima]
3 [Open session]
4 [The accused entered court]
5 --- Upon commencing at 10:00 a.m.
6 THE USHER: The Special Court will stand, please.
7 JUDGE ITOE: Please be seated. Please call the first case.
8 * THE REGISTRAR: Case number S -- case number SCSL-06, Alex Tamba
9 Brima, also known as Tamba Alex Brima, also known as Gullit. The
10 Prosecutor against Alex Tamba Brima, also known as Tamba Alex Brima, also
11 known as Gullit.
12 JUDGE ITOE: May I have the cause list, please.
13 Yes, appearances, please.
14 MR. JOHNSON: For the Prosecution, James Johnson and Nicholas
15 Browne-Marke.
16 JUDGE ITOE: For the Defence.
17 MS. CARLTON-HANCILES: For the Defence, Claire F.
18 Carlton-Hanciles.
19 JUDGE ITOE: Yes.
20 MS. CARLTON-HANCILES: Haddi Jatou Kah-Jallow.
21 JUDGE ITOE: That's K-a-h, J-a-l-l-o-w.
22 MS. CARLTON-HANCILES: Yes, My Lord.
23 JUDGE ITOE: Yes.
24 MS. CARLTON-HANCILES: And Ibrahim S. Yillah.
25 JUDGE ITOE: Yillah is Y-i-l-l-a-h?

1 MR. YILLAH: Very good, My Lord. Very good.
2 JUDGE ITOE: Stand.
3 [The accused stands]
4 JUDGE ITOE: Are you Alex Tamba Brima?
5 THE ACCUSED: I'm Tamba Alex Brima. ✓
6 JUDGE ITOE: Tamba Alex Brima. ✓
7 THE ACCUSED: Yes, Your Lordship. ✓✓
8 JUDGE ITOE: You have -- you are being represented here by three
9 lawyers. Are you aware of that?
10 THE ACCUSED: Yes, Your Lordship. ✓
11 JUDGE ITOE: This matter was adjourned for a ruling to be made on
12 an application submitted by the Defence on whether there should be an
13 interpreter or not. In accordance with our Rules of Procedure, the
14 Court rules that the accused person is entitled to an interpreter who
15 will conduct the interpretation from English to Krio or vice versa.
16 So have you been served with the charge? Where is the -- can you
17 get us an interpreter, please.
18 THE REGISTRAR: Yes, My Lord. Come up.
19 [The interpreter enters court]
20 JUDGE ITOE: Microphone.
21 THE REGISTRAR: Are you a Muslim or a Christian?
22 • THE INTERPRETER: Christian.
23 THE REGISTRAR: Christian.
24 • THE INTERPRETER: I, Brima K. Sesay, an interpreter or a
25 translator, shall solemnly declare to do so faithfully, independently,

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1 impartially, and with full respect for the duty of confidentiality, so
2 help me God.

3 THE REGISTRAR: Sworn on the Bible, My Lord.

4 [The interpreter was sworn]

5 JUDGE ITOE: So the name of the interpreter, what's your name?

6 THE INTERPRETER: Brima K. Sesay.

7 JUDGE ITOE: Brima?

8 THE INTERPRETER: Brima K. Sesay.

9 JUDGE ITOE: How do you spell "K"?

10 THE INTERPRETER: Just a "K".

11 JUDGE ITOE: Just "K", just an abbreviation for a name.

12 THE INTERPRETER: Yes.

13 JUDGE ITOE: Can we have the name, please.

14 THE INTERPRETER: Kelson.

15 JUDGE ITOE: Kelson.

16 THE INTERPRETER: Yes, sir.

17 JUDGE ITOE: How do you spell it?

18 THE INTERPRETER: K-e-l-s-o-n.

19 JUDGE ITOE: Mm-hm. Sesay?

20 THE INTERPRETER: S-e-s-a-y.

21 JUDGE ITOE: Let the defendant inform us whether he's been served
22 with a copy of the indictment.

23 THE ACCUSED: [Interpretation] Yes, My Lord.

24 JUDGE ITOE: Has he read that?

25 THE INTERPRETER: He says he's not good at reading. ✓

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1 JUDGE ITOE: Has he spoken to his counsel?
2 THE ACCUSED: [Interpretation] Yes. ✓
3 JUDGE ITOE: Have they brought -- have they looked at the
4 indictment?
5 THE ACCUSED: [Krio spoken and no interpretation] ✓
6 JUDGE ITOE: I'm not hearing him. Let him -- speak up.
7 THE ACCUSED: [Interpretation] They will say that. ✓
8 JUDGE ITOE: Where were you before you were brought in detention?
9 THE ACCUSED: [Krio spoken and no interpretation] ✓
10 JUDGE ITOE: He should speak out. Even though he's being
11 interpreted, we want to hear him speaking out.
12 THE INTERPRETER: Yes, sir.
13 JUDGE ITOE: Speak out. You're not only talking to him, you
14 know, talk -- let's hear you.
15 THE ACCUSED: I've been in a prison. ✓
16 JUDGE ITOE: Huh?
17 THE ACCUSED: I've been in a prison. ✓
18 THE INTERPRETER: I was in prison.
19 JUDGE ITOE: In Freetown?
20 THE ACCUSED: Yes. ✓
21 JUDGE ITOE: Yes, can counsel -- Madam Hanciles --
22 MS. CARLTON-HANCILES: Yes, My Lord.
23 JUDGE ITOE: -- you have gone through the indictment?
24 ✓ MS. CARLTON-HANCILES: Yes, My Lord. We have actually gone
25 through it completely, and he prefers to have the charges put to him this

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1 morning.

2 JUDGE ITOE: In what sense? Of course the charges will be put to
3 him normally.

4 ✓ MS. CARLTON-HANCILES: Yes. He is not -- he does not mind if the
5 full indictment is not read out to him. He will have the charges read to
6 him in terms of the counts, and he will take his plea.

7 JUDGE ITOE: It is not his preference. We have an obligation
8 here for the indictment to be read to the accused person.

9 ✓ MS. CARLTON-HANCILES: My Lord, we fully appreciate that. And
10 we've actually had fruitful discussions with him with regard to the whole
11 indictment. And, My Lord, he -- according to what we have actually got
12 from him, he will not mind if the counts are put to him and he takes a
13 plea.

14 JUDGE ITOE: Well, the Court rules that, you know, the entire
15 indictment will be read to him.

16 ✓ MS. CARLTON-HANCILES: Much obliged, My Lord.

17 JUDGE ITOE: And we'll take all the time, we're here for the day,
18 so that he knows precisely the content of the entire indictment that has
19 been brought for him -- against him.

20 ✓ MS. CARLTON-HANCILES: Much obliged.

21 JUDGE ITOE: Yes.

22 Yes, can you please read the indictment.

23 THE REGISTRAR: Case number SCSL-06, Prosecutor against Alex
24 Tamba Brima, also known as Tamba Alex Brima, also known as Gullit.

25 Indictment.

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1 The Prosecutor, Special Court for Sierra Leone, under Article 15
2 of the Statute of the Special Court for Sierra Leone (the Statute)
3 charges Alex Tamba Brima, also known as (aka) Tamba Alex Brima aka Gullit
4 with crimes against humanity, violations of Article 3 Common to the
5 Geneva Conventions and of Additional Protocol II, and other serious
6 violations of international humanitarian law, in violation of Articles 2,
7 3 and 4 of the Statute as set forth below:

8 The Accused.

9 Alex Tamba Brima, aka Tamba Alex Brima, aka Gullit (the Accused),
10 was born 23 November 1971 at Yaryah Village, Kono District, Republic of
11 Sierra Leone.

12 [Fan noise]

13 THE REGISTRAR: That was 1.

14 2. The Accused joined the Sierra Leone Army (SLA) in April 1985
15 and rose to the rank of Staff Sergeant. ✓

16 * General Allegations. *

17 3. At all times relevant to this Indictment, a state of armed
18 conflict existed within Sierra Leone. For the purposes of this
19 Indictment, organized armed factions involved in this conflict included
20 the Revolutionary United Front (RUF), the Civil Defence Forces (CDF) and
21 the Armed Forces Revolutionary Council (AFRC).

22 4. A nexus existed between the armed conflict and all acts or
23 omissions charged herein as violations of Article 3 Common to the Geneva
24 Conventions -- a nexus existed between the armed conflict and all acts or
25 omissions charged herein as violations of Article 3 Common to the Geneva

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1 Conventions and of Additional Protocol II and as other serious violations
2 of international humanitarian law.

3 5. The organized armed group that became known as the RUF, led
4 by Foday Saybana Sankoh aka Popay aka Papa aka Pa, was founded about 1988
5 or 1989 in Libya. The RUF, under the leadership of Foday Saybana Sankoh,
6 began organized operations in Sierra Leone in March 1991. During the
7 ensuing armed conflict, the RUF forces were also referred to as "RUF",
8 "rebels" and "People's Army".

9 6. The CDF was comprised of Sierra Leonean traditional hunters,
10 including the Kamajors, Gbethis, Kapras, Tamaboros and Donsos. The CDF
11 fought against the RUF and AFRC.

12 7. On 30 November 1996, in Abidjan, Ivory Coast, Foday Saybana
13 Sankoh and Ahmed Tejan Kabbah, the President of the Republic of Sierra
14 Leone, signed a peace agreement which brought a temporary cessation to
15 active hostilities. Thereafter, the active hostilities recommenced.

16 8. The AFRC was founded by members of the Armed Forces of Sierra
17 Leone who seized power from the elected government of the Republic of
18 Sierra Leone via a coup d'etat on 25 May 1997. Soldiers of the Sierra
19 Leone Army (SLA) comprised the majority of the AFRC membership. On that
20 date Johnny Paul Koroma aka JPK became the leader and Chairman of the
21 AFRC. The AFRC forces were also referred to as "Junta ", "soldiers",
22 "SLA", and "ex-SLA".

23 9. Shortly after the AFRC seized power, at the invitation of
24 Johnny Paul Koroma, and upon the order of Foday Saybana Sankoh, leader of
25 the RUF, the RUF joined the AFRC. The AFRC and RUF acted jointly

1 thereafter.

2 JUDGE ITOE: Excuse me. Just ask him. Is he following the
3 indictment?

4 THE ACCUSED: [Interpretation] Yes. ✓

5 JUDGE ITOE: Go ahead.

6 THE REGISTRAR: The AFRC/RUF Junta forces (Junta) were also
7 referred to as "Junta", "rebels", "soldiers", "SLA", "ex-SLA" and
8 "People's Army".

9 10. After the 25 May 1997 coup d'etat, a governing body, the
10 Supreme Council, was created within the Junta. The governing body
11 included leaders of both the AFRC and RUF.

12 11. The Junta was forced from power by forces acting on behalf
13 of the ousted government of President Kabbah about 14 February 1998.
14 President Kabbah's government returned ^{10th} in March 1998. After the Junta
15 was removed from power, the AFRC/RUFF alliance continued.

16 12. On 7 July 1999, in Lome, Togo, Foday Saybana Sankoh and
17 Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a
18 peace agreement. However, active hostilities continued.

19 13. The Accused and all members of the organized armed factions
20 engaged in fighting within Sierra Leone were required to abide by
21 international humanitarian law and the laws and customs governing the
22 conduct of armed conflicts, including the Geneva Conventions of 12 August
23 1949, and Additional Protocol II to the Geneva Conventions, to which the
24 Republic of Sierra Leone acceded on 21 October 1986.

25 14. All offences alleged herein were committed within the

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1 territory of Sierra Leone after 30 November 1996.

2 15. All acts and omissions charged herein as crimes against
3 humanity were committed as part of a widespread or systematic attack
4 directed against the civilian population of Sierra Leone.

5 16. The words "civilian" or "civilian population" used in this
6 Indictment refer to persons who took no active part in the hostilities,
7 or who were no longer -- who were no longer taking an active part in the
8 hostilities.

9 * Individual Criminal Responsibility. *

10 17. Paragraphs 1 through 16 are incorporated by reference.
11 Paragraphs 1 through 16, that is all what I have read, are incorporated
12 by reference.

13 18. At all times relevant to this Indictment, Alex Tamba Brima
14 was a senior member of the AFRC, Junta and AFRC/RUF forces.

15 19. The Accused was a member of the group which staged the coup
16 and ousted the government of President Kabbah. Johnny Paul Koroma,
17 Chairman and leader of the AFRC, appointed the Accused a Public Liaison
18 Officer (PLO) within the AFRC. In addition, the Accused was a member of
19 the Junta governing body.

20 20. Between mid February 1998 and about 30 April 1998, Alex
21 Tamba Brima was in direct command of AFRC/RUF forces in the Kono
22 District. In addition, the Accused was in direct command of AFRC/RUF
23 forces which conducted armed operations throughout the northeastern and
24 central areas of the Republic of Sierra Leone, including, but not limited
25 to, attacks on civilians in Bombali District between about May 1998 and

KURUBELA
MUSEFIA
YARIA

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1 31 July 1998. As of about 22 December 1998, the Accused was in command
2 of AFRC/RUF forces which attacked Freetown on 6 January 1999. Nil

3 21. In the positions referred to in paragraphs 18 through 20,
4 Alex Tamba Brima individually, or in concert with Johnny Paul Koroma,
5 Foday Saybana Sankoh, Issa Hassan Sesay aka Issa Sesay, Sam Bockarie aka
6 Mosquito aka Maskita, Morris Kallon aka Bilai Karim, and/or other
7 superiors in the AFRC, Junta and AFRC/RUF forces, exercised authority,
8 command and control all over -- over all subordinate members of the AFRC,
9 Junta and AFRC/RUF forces.

10 22. At all times relevant to this Indictment, the Accused,
11 through his association with the RUF, acted in concert with Charles
12 Ghankay Taylor aka Charles MacArthur Dapkpana Taylor.

13 23. The AFRC, including the Accused, and the RUF shared a common
14 plan, purpose or design (joint criminal enterprise) which was to take any
15 actions necessary to gain and exercise political power and control over
16 the territory of Sierra Leone, in particular the diamond mining areas.
17 The natural resources of Sierra Leone, in particular the diamonds, were
18 to be provided to persons outside Sierra Leone in return for assistance
19 in carrying out the joint criminal enterprise.

20 24. The joint criminal enterprise included gaining and
21 exercising control over the population of Sierra Leone in order to
22 prevent or minimize resistance to their geographic control, and to use
23 members of the population to provide support to the members of the joint
24 criminal enterprise. The crimes alleged in this Indictment, including
25 unlawful killings, abductions, forced labor, physical and sexual

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1 violence, use of child soldiers, looting and burning of civilian
2 structures, were either actions within the joint criminal enterprise or
3 were a reasonably foreseeable consequence of the joint criminal
4 enterprise.

5 25. Alex Tamba Brima, by his acts or omissions, is individually
6 criminally responsible, pursuant to Article 6.1 of the Statute, of the
7 crimes referred to in Articles 2, 3 and 4 of the Statute as alleged in
8 this Indictment, which crimes the Accused planned, instigated, ordered,
9 committed or in whose planning, preparation or execution the Accused
10 otherwise aided and abetted, or which crimes were within a joint criminal
11 enterprise in which the Accused participated or were a reasonably
12 foreseeable consequence of the joint criminal enterprise in which the
13 Accused participated.

14 26. In addition, or alternatively, pursuant to Article 6.3 of
15 the Statute, Alex Tamba Brima, while holding positions of superior
16 responsibility and exercising effective control over his subordinates, is
17 individually criminally responsible for the crimes referred to in
18 Articles 2, 3 and 4 of the Statute. The Accused is responsible for the
19 criminal acts of his subordinates in that he knew or had reason to know
20 that the subordinate was about to commit such acts or had done so and the
21 Accused failed to take the necessary and reasonable measures to prevent
22 such acts or to punish the perpetrators thereof.

23 * Charges *

24 27. Paragraphs 17 through 26 are incorporated by reference.

25 28. At all times relevant to this Indictment, members of the

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1 RUF, AFRC, Junta and/or AFRC/RUF forces (AFRC/RUF), subordinate to and/or
2 acting in concert with Alex Tamba Brima, conducted armed attacks
3 throughout the territory of the Republic of Sierra Leone, including, but
4 not limited to, Bo, Kono, Kenema, Bombali and Kailahun Districts and
5 Freetown. Targets of the armed attacks included civilians and
6 humanitarian assistance personnel and peacekeepers assigned to the United
7 Nations Mission in Sierra Leone (UNAMSIL), which had been created by
8 United Nations Security Council Resolution 1270 (1999).

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

19 30. As part of the campaign of terror and punishment the
20 AFRC/RUF routinely captured and abducted members of the civilian
21 population. Captured women and girls were raped; many of them were
22 abducted and used as sex slaves and as forced labor. Some of these women
23 and girls were held captive for years. Many and boys who were abducted
24 were also used as forced labor; some of them were also held captive for
25 years. Many abducted boys and girls were given combat training and used

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1 in active fighting. AFRC/RUF also physically mutilated men, women and
2 children, including amputating their hands or feet and carving "AFRC" and
3 "RUF" on their bodies.

4 Counts 1 to 2 -- inform him when I'm done this, His Lordship will
5 ask him to plead to the counts, one after the other. So listen
6 carefully.

7 Counts 1 to 2: Terrorizing the Civilian Population and
8 Collective Punishments.

9 31. Members of the AFRC/RUF subordinate to and/or acting in
10 concert with Alex Tamba Brima committed the crimes set forth below in
11 paragraphs 32 through 57 and charged in Counts 3 through 13 as part of a
12 campaign to terrorize the civilian population of the Republic of Sierra
13 Leone, and did terrorize that population. The AFRC/RUF also committed
14 the crimes to punish the civilian population for allegedly supporting the
15 elected government of President Ahmed Tejan Kabbah and factions aligned
16 with that government, or for failing to provide sufficient support to the
17 AFRC/RUF.

18 By his acts or omissions in relation but not limited to these
19 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
20 Article 6.3 of the Statute, is individually criminally responsible for
21 the crimes alleged below:

22 * Count 1: Acts of terrorism, a violation of Article 3 Common to
23 the Geneva Conventions and of Additional Protocol II, punishable under
24 Article 3.d of the Statute.

25 JUDGE ITOE: Now, that is Count 1. Are you guilty or not guilty?

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1 1. THE ACCUSED: Not guilty, Your Lordship. ✓

2 THE INTERPRETER: Not guilty, Your Lordship.

3 JUDGE ITOE: All right. Count 2.

4 * THE REGISTRAR: Count 2: Collective punishments, a violation of
5 Article 3 Common to the Geneva Conventions and of Additional Protocol II,
6 punishable under Article 3.b of the Statute.

7 THE INTERPRETER: Take it slowly.

8 * THE REGISTRAR: Count 2: Collective punishments, a violation of
9 Article 3 Common to the Geneva Conventions and of Additional Protocol II,
10 punishable under Article 3.b of the Statute.

11 JUDGE ITOE: Ask him if he's guilty or not guilty. Are you
12 guilty or not guilty?

13 2. THE ACCUSED: Not guilty, My Lord. ✓

14 THE INTERPRETER: Not guilty, My Lord.

15 THE REGISTRAR: Counts 3 to 5: Unlawful Killings.

16 32. Victims were routinely shot, hacked to death and burned to
17 death. Unlawful killings included, but were not limited to, the
18 following:

19 Bo District.

20 33. Between 1 June 1997 and 30 June 1997, AFRC/RUF attacked
21 Tikonko, Telu, Sembehun, Gerihun, Mamboma, unlawfully killing an unknown
22 number of civilians;

23 Kenema District.

24 34. Between about 25 May 1997 and about 19 February 1998, in
25 locations including Kenema Town, members of AFRC/RUF unlawfully killed an

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1 unknown number of civilians;

2 Kono District.

3 35. About mid February 1998, AFRC/RUF fleeing from Freetown
4 arrived in Kono District. Between about 14 February 1998 and 30 June
5 1998, members of AFRC/RUF unlawfully killed several hundred civilians in
6 various locations in Kono District, including Koidu, Tombodu, Foindu,
7 Willifeh, Mortema and Biaya;

8 Bombali District.

9 36. Between about 1 May 1998 and 31 July 1998 -- 31 July 1998,
10 in locations including Karina, members of AFRC/RUF unlawfully an unknown
11 number of civilians;

12 Freetown.

13 37. Between 6 January 1999 and 31 January 1999, AFRC/RUF
14 conducted armed attacks throughout the city of Freetown. These attacks
15 included large-scale unlawful killings of civilian men, women and
16 children at locations throughout the city, including the State House,
17 Parliament building, Connaught Hospital, and the Kissy, Fourah Bay,
18 Upgun, Calaba Town and Tower Hill areas of the city.

19 By his acts or omissions in relation but not limited to these
20 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
21 Article 6.3 of the Statute, is individually criminally responsible for
22 the crimes alleged below:

23 ✖ Count 3: Extermination, a crime against humanity, punishable
24 under Article 2.b of the Statute.

25 JUDGE ITOE: Are you guilty or not guilty?

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1 3 THE ACCUSED: Not guilty. ✓
2 JUDGE ITOE: Hmm?
3 THE ACCUSED: Not guilty, Your Honour. ✓
4 THE INTERPRETER: Not guilty.
5 JUDGE ITOE: Go ahead.
6 THE REGISTRAR: In addition, or in the alternative:
7 * Count 4: Murder, a crime against humanity, punishable under
8 Article 2.a of the Statute.
9 JUDGE ITOE: Are you guilty or not guilty?
10 4 THE ACCUSED: Not guilty, Your Lordship. ✓
11 THE REGISTRAR: In addition, or in the alternative:
12 * Count 5: Violence to life, health and physical or mental
13 well-being of persons, in particular murder, a violation of Article 3
14 Common to the Geneva Conventions and of Additional Protocol II,
15 punishable under Article 3.a of the Statute.
16 JUDGE ITOE: Are you guilty or not guilty?
17 5 THE ACCUSED: Not guilty, Your Lordship. ✓
18 THE REGISTRAR: Counts 6 to 8: Sexual Violence.
19 38. Widespread sexual violence committed against civilian women
20 and girls included brutal rapes, often by multiple rapists. Acts of
21 sexual violence included, but were not limited to, the following:
22 Kono District.
23 39. Between about 14 February 1998 and 30 June 1998, members of
24 AFRC/RUF raped hundreds of women and girls at various locations
25 throughout the District, including Koidu, Tombodu, Kiss-town (or Kissy

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1 Town), Foendor (Foendu), Tomendeh, Fokoiya, Wonededu, and AFRC/RUF camps
2 such as "Superman camp" and Kissi-town (or Kissy Town) camp. An unknown
3 number of women and girls were abducted from various locations within the
4 District and used as sex slaves;

5 Bombali District.

6 40. Between about 1 May 1998 and 31 July 1998, members of
7 AFRC/RUF raped an unknown number of women and girls in locations such as
8 Mandaha. In addition, an unknown number of abducted women and girls were
9 used as sex slaves;

10 Kailahun District.

11 41. At all times relevant to this Indictment, an unknown number
12 of women and girls in various locations in the District were subjected to
13 sexual violence. Many of these victims were captured in other areas of
14 the Republic of Sierra Leone, brought to AFRC/RUF camps in the District,
15 and used as sex slaves;

16 Freetown.

17 42. Between 6 January 1999 and 31 January 1999, members of
18 AFRC/RUF raped hundreds of women and girls throughout the Freetown area,
19 and abducted hundreds of women and girls and used them as sex slaves.

20 By his acts or omissions in relation but not limited to these
21 events, Alex Tamba Brima, pursuant to Article 6.1 --

22 JUDGE ITOE: Just hold on, just hold on. I imagine -- who are
23 you?

24 MR. JENKINS-JOHNSTON: Me, sir?

25 JUDGE ITOE: Yes.

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1 MR. JENKINS-JOHNSON: I'm representing Chief Norman.

2 JUDGE ITOE: You are counsel representing Chief Norman.

3 MR. JENKINS-JOHNSTON: Yes, My Lord.

4 JUDGE ITOE: Just take a seat there.

5 THE REGISTRAR:

6 Freetown.

7 42. Between 6 January 1999 and 31 January 1999, members of
8 AFRC/RUF raped hundreds of women and girls throughout the Freetown area,
9 and abducted hundreds of women and girls and used them as sex slaves.

10 By his acts or omissions but not limited to these events, Alex
11 Tamba Brima, pursuant to Article 6.1 and, or alternatively, Article 6.3
12 of the Statute, is individually criminally responsible for the crimes
13 alleged below:

14 * Count 6: Rape, a crime against humanity, punishable under
15 Article 2.g of the Statute.

16 JUDGE ITOE: Are you guilty or not guilty?

17 6. THE ACCUSED: Not guilty, Your Lordship. ✓

18 THE INTERPRETER: Not guilty, Your Lordship.

19 * THE REGISTRAR: Count 7: Sexual slavery and any other form of
20 sexual violence, a crime against humanity, punishable under Article 2.g
21 of the Statute.

22 JUDGE ITOE: Guilty or not guilty?

23 7. THE ACCUSED: Not guilty, Your Lordship. ✓

24 THE REGISTRAR: In addition, or in the alternative:

25 * Count 8: Outrages upon personal dignity, a violation of Article

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1 3 Common to the Geneva Conventions and of Additional Protocol II,
2 punishable under Article 3.e of the Statute.

3 JUDGE ITOE: Are you guilty or not guilty?

4 8. THE ACCUSED: Not guilty, Your Lordship. ✓

5 THE REGISTRAR: Counts 9 to 10: Physical Violence.

6 43. Widespread physical violence, including mutilations, was
7 committed against civilians. Victims were often brought to a central
8 location where mutilations were carried out. These acts of physical
9 violence included, but were not limited to, the following:

10 Kono District.

11 44. Between about 14 February 1998 and 30 June 1998, AFRC/RUF
12 mutilated an unknown number of civilians in various locations in the
13 District, including Tombodu, Kaima (or Kayima) and Wonededu. The
14 mutilations included cutting off limbs and carving "AFRC" and "RUF" on
15 the bodies of the civilians;

16 Freetown.

17 45. Between 6 January 1999 and 31 January 1999, AFRC/RUF
18 mutilated an unknown number of civilian men, women and children in
19 various areas of Freetown, including the northern and eastern areas of
20 the city, and the Kissy area, including the Kissi mental hospital. The
21 mutilations included cutting off limbs.

22 By his acts or omissions in relation but not limited to these
23 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
24 Article 6.3 of the Statute, is individually criminally responsible for
25 the crimes alleged below:

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1 * Count 9: Violence to life, health and physical or mental
2 well-being of persons, in particular mutilation, a violation of Article 3
3 Common to the Geneva Conventions and of Additional Protocol II,
4 punishable under Article 3.a of the Statute.

5 JUDGE ITOE: Are you guilty or not guilty?

6 9 THE ACCUSED: Not guilty, My Lordship. ✓

7 THE REGISTRAR: In addition, or in the alternative:

8 * Count 10: Other inhumane acts, a crime against humanity,
9 punishable under Article 2.i of the Statute.

10 * Count 11 --

11 JUDGE ITOE: Are you guilty or not guilty?

12 10. THE ACCUSED: Not guilty, Your Lordship. ✓

13 THE REGISTRAR: Count 11: Use of Child Soldiers.

14 * JUDGE ITOE: Tell the accused to not say My Worship but My *
15 Lordship.

16 THE INTERPRETER: Yes, My Lord. [Krio spoken].

17 JUDGE ITOE: Count 11, yes, go ahead.

18 THE REGISTRAR: Count 11. Use of Child Soldiers.

19 46. At all times relevant to this Indictment, throughout the
20 Republic of Sierra Leone, AFRC/RUF routinely conscripted, enlisted and/or
21 used boys and girls under the age of 15 to participate in active
22 hostilities. Many of these children were first abducted, then trained in
23 AFRC/RUF camps in various locations throughout the country, and
24 thereafter used as fighters.

25 By his acts or omissions in relation but not limited to these

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1 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
2 Article 6.3 of the Statute, is individually criminally responsible for
3 the crimes alleged below:

4 ~~X~~ Count 11: Conscripting or enlisting children under the age of 15
5 years into armed forces or groups, or using them to participate actively
6 in hostilities, an other serious violation of international humanitarian
7 law, punishable under Article 4.c of the Statute.

8 JUDGE ITOE: Are you guilty or not guilty?

9 II. THE ACCUSED: Not guilty, my Lordship. ✓

10 THE REGISTRAR: Not guilty, My Lord.

11 JUDGE ITOE: Yes, I've heard him. Go ahead.

12 THE REGISTRAR: Count 12: Abductions and Forced Labor.

13 47. At all times relevant to this Indictment, AFRC/RUF engaged
14 in widespread and large-scale abductions and used of civilians -- and use
15 of civilians as forced labor. Forced labor included domestic labor and
16 use as diamond miners. The abductions and forced labor included, but
17 were not limited to, the following:

18 Kenema District.

19 48. Between about 1 August 1997 and about 31 January 1998,
20 AFRC/RUF forced an unknown number of civilians living in the District to
21 mine for diamonds at Cyborg Pit in Tongo Field;

22 Kono District.

23 49. Between about 14 February 1998 and 30 June 1998, AFRC/RUF
24 forces abducted hundreds of civilian men, women and children, and took
25 them to various locations outside the District, or to locations within
KURUBOLA
MASOFIA
B.
YIRIA

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1 the District such as AFRC/RUF camps, Tombodu, Koidu, Wondedu, Tomendeh.
2 At these locations the civilians were used as forced labor, including
3 domestic labor and as diamond miners in the Tombodu area;
4 Bombali District.

5 50. Between about 1 May 1998 and 31 July 1998, in Bombali
6 District, AFRC/RUF abducted an unknown number of civilians and used them
7 as forced labor;

KURUBOLA
MASTIN
YIRIA

8 Kailahun District.

9 51. At all times relevant to this Indictment, captured civilian
10 men, women and children were brought to various locations within the
11 District and used as forced labor;

12 Freetown.

13 52. Between 6 January 1996 --

14 JUDGE ITOE: 1999.

15 THE REGISTRAR: -- 1999 and 31 January 1999, in particular as the
16 AFRC/RUF were being driven out of Freetown, the AFRC/RUF abducted
17 hundreds of civilians, including a large number of children, from various
18 areas within Freetown, including Peacock Farm and Calaba Town. These
19 abducted civilians were used as forced labor.

20 By his acts or omissions in relation but not limited to these
21 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
22 Article 6.3 of the Statute, is individually criminally responsible for
23 the crimes alleged below:

24 * Count 12: Enslavement, a crime against humanity, punishable
25 under Article 2.c of the Statute.

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1 JUDGE ITOE: Are you guilty or not guilty?

2 12. THE ACCUSED: Not guilty, My Lord. ✓

3 THE REGISTRAR: Count 13: Looting and Burning.

4 53. At all times relevant to this Indictment, AFRC/RUF engaged
5 in widespread unlawful taking and destruction by burning of civilian
6 property. This looting and burning included, but was not limited to, the
7 following:

8 Bo District.

9 54. Between 1 June 1997 and 30 June 1997, AFRC/RUF forces looted
10 and burned an unknown number of civilian houses in Telu, Sembehun,
11 Mamboma, and Tikonko;

12 Kono District.

13 55. Between about 14 February 1998, AFRC/RUF engaged in
14 widespread looting and burning in various locations in the District,
15 including Tombodu, Foindu and Yardu Sando, where virtually every home in
16 the village was looted and burned;

17 Bombali District.

18 56. Between 1 March 1998 and 30 June 1998, AFRC/RUF forces burnt
19 an unknown number of civilian buildings in locations such as Karina;

20 Freetown.

21 57. Between 6 January 1999 and 31 January 1999, AFRC/RUF forces
22 engaged in widespread looting and burning throughout Freetown. The
23 majority of houses that were destroyed were in the area of Kissy and
24 eastern Freetown; other locations included the Fourah Bay, Uppun, State
25 House, and Pademba Road areas of the city.

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1 By his acts or omissions in relation but not limited to these
2 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
3 Article 6.3 of the Statute, is individually criminally responsible for
4 the crimes alleged below:

5 * Count 13: Pillage, a violation of Article 3 Common to the Geneva
6 Conventions and of Additional Protocol II, punishable under Article 3.f
7 of the Statute.

8 JUDGE ITOE: Are you guilty or not guilty?

9 13 THE ACCUSED: Not guilty, My Lord. ✓

10 JUDGE ITOE: Hmm?

11 THE ACCUSED: Not guilty, My Lord.

12 THE REGISTRAR: Counts 14 to 17: Attacks on UNAMSIL Personnel.

13 58. Between about 15 April 2000 and about 15 September 2000,
14 AFRC/RUF engaged in widespread attacks against UNAMSIL peacekeepers and
15 humanitarian assistance workers within the Republic of Sierra Leone,
16 including, but not limited to locations within Bombali, Kailahun, Kambia,
17 Port Loko, and Kono Districts. These attacks included unlawful killing
18 of UNAMSIL peacekeepers, and abducting hundreds of peacekeepers and
19 humanitarian assistance workers who were then held hostage.

20 By his acts or omissions in relation but not limited to these
21 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
22 Article 6.3 of the Statute, is individually criminally responsible for
23 the crimes alleged below:

24 * Count 14: Intentionally directing attacks against personnel --

25 ✓✓ MS. CARLTON-HANCILES: Excuse me, My Lord. We are supposed to

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1 take a plea to 13.

2 JUDGE ITOE: Ms. Carlton.

3 ✓ MS. CARLTON-HANCILES: Yes, My Lord. We have yet to take a
4 please to Count 13.

5 JUDGE ITOE: Yes, we should do that.

6 THE REGISTRAR: We are now coming to 14. We took his please on
7 13.

8 JUDGE ITOE: That was -- that was on what count, Count 14?

9 THE REGISTRAR: We are moving to 14. We took his plea on 13. He
10 pleaded to 13 already.

11 JUDGE ITOE: I think he pleaded to 13 already. You're not
12 certain he pleaded to 13?

13 ✓ MS. CARLTON-HANCILES: No, we are only concerned that the pleas
14 be properly taken at this stage.

15 JUDGE ITOE: Yes.

16 ✓ MS. CARLTON-HANCILES: According to your records, My Lord, if he
17 pleaded to 13, we're much obliged.

18 JUDGE ITOE: Well, let us to be very sure that he pleaded to 13.
19 Can we take 13 over again.

20 THE COURT REPORTER: It's in the record, My Lord.

21 JUDGE ITOE: It's in the record?

22 THE COURT REPORTER: Yes.

23 JUDGE ITOE: That he pleaded?

24 THE COURT REPORTER: Yes.

25 JUDGE ITOE: It's on the record.

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1 THE COURT REPORTER: It's on the record.

2 JUDGE ITOE: But please let us have it again on the record, Count
3 13. Take 13 over again.

4 THE REGISTRAR: Okay.

5 * * Count 13: Pillage, a violation of Article 3 Common to the Geneva
6 Conventions and of Additional Protocol II, punishable under Article 3.F
7 of the Statute.

8 JUDGE ITOE: Are you guilty or not guilty?

9 13. THE ACCUSED: Not guilty, My Lord. ✓

10 ✓ MS. CARLTON-HANCILES: Much obliged, My Lord.

11 THE REGISTRAR: Counts 14 to 17: Attacks on UNAMSIL Personnel.

12 58. Between about 15 April 2000 and about 15 September 2000,
13 AFRC/RUF engaged in widespread attacks against UNAMSIL peacekeepers and
14 humanitarian assistance workers within the Republic of Sierra Leone,
15 including, but not limited to locations within Bombali, Kailahun, Kambia,
16 Port Loko, and Kono Districts. These attacks included unlawful killing
17 of UNAMSIL peacekeepers, and abducting hundreds of peacekeepers and
18 humanitarian assistance workers who were then held hostage.

19 By his acts or omissions in relation but not limited to these
20 events, Alex Tamba Brima, pursuant to Article 6.1 and, or alternatively,
21 Article 6.3 of the Statute, is individually criminally responsible for
22 the crimes alleged below:

23 14. * Count 14: Intentionally directing attacks against personnel
24 involved in the humanitarian assistance or peacekeeping mission, an other
25 serious violation of international humanitarian law, punishable under

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1 Article 4.b of the Statute.

2 JUDGE ITOE: Are you guilty or not guilty?

3 THE ACCUSED: Not guilty, My Lord. ✓

4 THE REGISTRAR: In addition, or in the alternative:

5 * Count 15: For the unlawful killings, murder, a crime against
6 humanity, punishable under Article 2.a of the Statute.

7 JUDGE ITOE: Are you guilty or not guilty?

8 15. THE ACCUSED: Not guilty, My Lord. ✓

9 THE REGISTRAR: In addition, or in the alternative:

10 * Count 16: Violence to life, health and physical or mental
11 well-being of persons, in particular murder, a violation of Article 3
12 Common to the Geneva Conventions and of Additional Protocol II,
13 punishable under Article 3.a of the Statute.

14 JUDGE ITOE: Are you guilty or not guilty?

15 16. THE ACCUSED: Not guilty, My Lord. ✓

16 THE REGISTRAR: In addition, or in the alternative -- in addition
17 or in the alternative:

18 * Count 17: For the abductions and holding of hostage, taking of
19 hostages, a violation of Article 3 Common to the Geneva Conventions and
20 of Additional Protocol II, punishable under Article 3.c of the Statute.

21 Dated this --

22 JUDGE ITOE: No, no. Are you guilty or not guilty?

23 17. THE ACCUSED: Not guilty, My Lord. ✓

24 JUDGE ITOE: We've come to the end of -- yes, read it.

25 THE REGISTRAR: Dated this 3rd day of March, 2003. Freetown,

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1 Sierra Leone. David M. Crane, the Prosecutor.

2 JUDGE ITOE: Yes. May I call on -- I want to have it on record.

3 I understand the accused to have pleaded not guilty to all the 17 counts.

4 THE ACCUSED: I'm not guilty of all. ✓

5 THE INTERPRETER: I'm not guilty of all.

6 JUDGE ITOE: And I understand that he has understood the nature
7 of the charges preferred against him, as have been explained to him.

8 THE ACCUSED: I understand. ✓

9 THE INTERPRETER: I understand.

10 JUDGE ITOE: Yes. Have counsel for the Prosecution any
11 observations to make at this stage?

12 MR. JOHNSON: No, Your Honour.

13 MS. CARLTON-HANCILES: Not at this stage, My Lord.

14 JUDGE ITOE: Not at this stage.

15 MS. CARLTON-HANCILES: Much obliged.

16 JUDGE ITOE: All right.

17 This matter will be stood down and it will called up later in the
18 course of the day for the necessary orders that have to be made in
19 relation to the pursuit of the proceedings. The matter is stood down and
20 the accused is dispensed of any further attendance today. But if need
21 arises, we'll obviously ask him to come.

22 ✓ MS. CARLTON-HANCILES: My Lord, may I be heard.

23 JUDGE ITOE: Yes.

24 ✓ MS. CARLTON-HANCILES: My Lord, before you identify his
25 declaration of means made by the accused, together with the request for

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1 legal assistance, My Lord, I do not know whether it would please you to
2 consider it either at this stage or later in the afternoon.

3 JUDGE ITOE: You are saying you're not sure of the -- he has made
4 an application for legal assistance.

5 ✓ MS. CARLTON-HANCILES: Yes, My Lord.

6 JUDGE ITOE: And he's receiving the assistance, pending the
7 investigations --

8 ✓ MS. CARLTON-HANCILES: Much obliged, My Lord.

9 JUDGE ITOE: -- which are being carried on by the Registrar of
10 the court.

11 ✓ MS. CARLTON-HANCILES: Much obliged, My Lord.

12 JUDGE ITOE: This assistance he's receiving will continue until
13 when we would have had a report on the Registrar on his investigations as
14 to the means of the accused person.

15 ✓ MS. CARLTON-HANCILES: Much obliged, My Lord.

16 JUDGE ITOE: The assistance will continue. But whatever be the
17 case, you can come up with any subsequent application or observation when
18 the matter comes up later in the day.

19 ✓ MS. CARLTON-HANCILES: Much obliged, My Lord.

20 JUDGE ITOE: The matter is stood down and it will be called up
21 again in the course of the day.

22 --- The matter was stood down at 11:34 a.m.

23 --- The matter was recalled at 1:45 p.m.

24 THE USHER: Special Court, all rise.

25 JUDGE ITOE: Please be seated. What time is it?

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1 THE REGISTRAR: Quarter to two.

2 JUDGE ITOE: As counsel will appreciate, we are coming --
3 virtually coming to the end of the pre-trial process that has kept us
4 here up to now. I would need to hear from counsel on both sides as to
5 the possible dates which will be retained for the purposes of the trial.

6 I am coming to case number SCSL-2003-06-01, Alex Tamba Brima. I
7 had as appearances for the Defence, Mrs. Carlton appearing with
8 Mrs. Jallow and Mr. Yillah.

9 We have dispensed with the attendance of the accused persons. As
10 far as this matter is concerned, and particularly as far as the issue of
11 legal aid is concerned, the Court confirms any legal assistance will
12 continue -- will continue to go on until such time that the Registrar
13 will be ready with the results of his -- of the investigations. Because
14 the crimes are of such a serious nature that we need -- the accused needs
15 to have his rights to a lawyer, to a Defence counsel, to be fully
16 protected. This is the situation.

17 Whilst we are still on this case, I do not know what your
18 attitude is to the dates of adjournment, you know, for a possible
19 take-off of the trial.

20 Can I hear from the Prosecution, please.

21 MR. JOHNSON: Yes, Your Honour, and I appreciate that of course
22 it's very hard to talk about scheduling a specific trial date at this
23 particular time. Maybe it would be most appropriate to look at a Status
24 Conference in the near future, and then we could -- we could see then, of
25 course, how the Defence is progressing and how the Registry has come with

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1 their means determination and where we stand on Defence counsel.

2 As I stated earlier, we still, of course, intend to proceed with
3 our obligations for disclosure under Rule 66, but a Status Conference
4 might be more in order.

5 JUDGE ITOE: Defence?

6 ✓MR. YILLAH: Yes, My Lord. I concur with the Prosecution in that
7 regard, My Lord. Rule 65 bis is very clear --

8 JUDGE ITOE: The microphone is running away from you.

9 ✓MR. YILLAH: My Lord, I think Rule 65 bis is instructive on this
10 point. I think it also states a time limit within which Your Lordship
11 can instruct a date, and within 60 days of the Initial Appearance.

12 JUDGE ITOE: Yes, right. Well ...

13 Right, well, on the possible date of the formalities, this matter
14 is adjourned to Friday, the 21st of March, 2003, for a ruling and a
15 directive on the issue. This matter is adjourned to the 21st of March,
16 2003. I have said the 21st, not the 20th.

17 ✓MS. KAH-JALLOW: At the sitting on Saturday, the 17th, you had
18 made an order for the 20th of March. Is it understood that that is --

19 JUDGE ITOE: It is on the 21st.

20 ✓MS. KAH-JALLOW: So the 20th is no longer in operation.

21 JUDGE ITOE: No, no, I'll come back to that issue in a couple of
22 minutes.

23 ✓MS. KAH-JALLOW: Thank you.

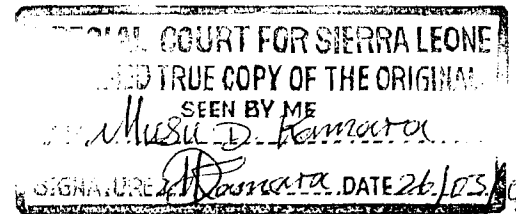
24 JUDGE ITOE: I'll come back to that issue.

25 ✓MS. KAH-JALLOW: As Your Lordship pleases.

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--- Whereupon the Initial Appearance adjourned at

1:45 p.m.



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EXHIBIT "TAB 5"

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN-SIERRA LEONE**

595

Before: Judge Bankole Thompson
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003.

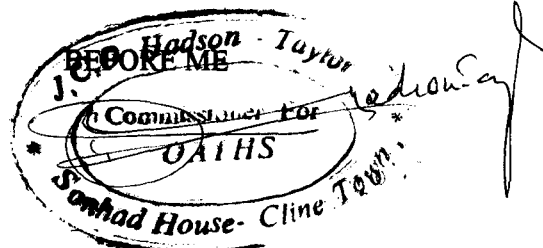
THE PROSECUTOR

Against

Alex Tamba Brima also known as (aka) Tamba Alex Brima aka GULLIT

Case No. SCSL – 2003 – 06 – PT

THIS is a photocopy of the acknowledgement of service of documents on the 15th of April, 2003 referred to in paragraph (28) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention Facility in Bonthe in the Southern Province of the Republic of Sierra Leone on the 23rd day of May, 2003 and marked Exhibit "TAB 5".



A COMMISSIONER FOR OATHS.

EXHIBIT "TAB 5"
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SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

COURT SERVICE – FORM 3 – PROOF OF SERVICE IN FREETOWN

Date: 15-4-03		Case Names: The Prosecutor v. ALEX TAMBA BRIMA	
		Case No.s: SCSL-2003-06-I	
To: A:	☐ TRIAL CHAMBER _____ copies received by: _____ (signature)		☐ APPEALS CHAMBER _____ copies received by: _____ (signature):
	For onward transmission to: ☐ Judge B. THOMPSON, Presiding ☐ Judge ITOE ☐ Judge BOUTET ☐ Legal Officer ☐ By Fax: See CS 3F Form		For onward transmission to: ☐ Judge G. ROBERTSON, President ☐ Judge R. WINTHER ☐ Judge AYOOLA ☐ Judge G. KING ☐ Judge JALLOW ☐ By Fax: See CS Form 3F
	OFFICE OF THE PROSECUTOR ☐ Trial Attorney in charge of case: _____, received by _____		
	☒ DEFENSE ☐ Accused: See CS 2 Form ☐ Defence Office: _____ ☒ Counsel: _____ ☐ In Freetown _____ (signature) Abroad: ☐ By fax see CS 3F Form		
	All Decisions & Imp. Public Docs: ☐ Press & Public Affairs ☐ Court Library		
From:	☐ Listing Officer ☐ Court Officer ☐ Deputy Registrar ☒ Registrar		
CC:	☐ Registrar ☐ Deputy Registrar ☐ Chief WVSS ☐ Chief of Security		
Subject	Kindly find attached the following documents:		

Documents name

Date Filed

Pages

- ① PROSECUTION MOTION FOR PROTECTIVE MEASURES FOR WITNESSES AND VICTIMS 9-4-03 96-21
- ② PROSECUTION MOTION TO ALLOW DISCLOSURE 9-4-03 218-22
- ③ Scheduling Order 10-4-03 225-22
- ④ DECISION OF REGISTRAR 15-4-03 227-22
- ⑤ COMMUNICATION OF DEFENCE OFFICE REGARDING ASSIGNMENT OF COUNSEL 15-4-03 229-23

CS3 FORM

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**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

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Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003

THE PROSECUTOR

Against

**ALEX TAMBA BRIMA also known as (aka) TAMBA ALEX BRIMA
Aka GULLIT**

CASE NO. SCSL-2003-06-PT

DRAFT ORDER OF COURT FOR BAIL OR FOR PROVISIONAL RELEASE

**The ACCUSED, (the applicant herein) TAMBA ALEX BRIMA hereby moves
THE TRIAL CHAMBER by this Motion for an Order that he be admitted to
Bail OR be granted PROVISIONAL RELEASE**

Office of the Prosecutor:

The Prosecutor,
Luc Côté, Chief of Prosecutions
Brenda J. Hollis, Senior Trial Counsel
The Director of Prisons of the Republic of Sierra Leone
The Officer in Charge - Special Court Detention Facility
Centre in Bonthe.
The Hon. Attorney General and Minister of Justice of the
Republic of Sierra Leone

Defence Counsel:

Terence Michael Terry

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**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

**THE PROSECUTOR
Against**

**ALEX TAMBA BRIMA also known as (aka) TAMBA ALEX BRIMA
Aka GULLIT**

CASE NO. SCSL-2003-06-PT

DRAFT ORDER OF COURT FOR BAIL OR FOR PROVISIONAL RELEASE

The ACCUSED, (the applicant herein) TAMBA ALEX BRIMA hereby moves THE TRIAL CHAMBER by this Motion for an Order that he be admitted to Bail OR be granted PROVISIONAL RELEASE

SITTING AS JUDGE BANKOLE THOMPSON, designated by the President of the Special Court according to Rule 28 of the Rules of Procedure and Evidence of the Special Court (“the Rules”).

CONSISTENT WITH RULE 65 OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE

AND UPON HEARING TERENCE MICHAEL TERRY Counsel for the Applicant herein Tamba Alex Brima on a Notice of Motion dated the 2nd day of May, 2003 with the supporting affidavit of the Applicant Tamba Alex Brima sworn to on the 23rd day of May, 2003 at 10:55 o'clock in the forenoon with the respective exhibits.

AND UPON HEARING Counsel representing the officer-in-charge of the Special Court Detention facility in Bonthe, the Honourable Attorney-General and Minister of Justice or his representative and the Prosecutor or Counsel representing him.

HEREBY ORDERS AS FOLLOWS:-

1. That the Applicant is hereby granted OR admitted to bail pending the hearing and determination of his trial in the above case intituled the Special Court for Sierra Leone – case No.SCSL-2003-06-1 The Prosecutor against ALEX TAMBA BRIMA also known as TAMBA ALEX BRIMA also known as GULLIT.
2. That further and/OR in the alternative an order granting a provisional release of the Applicant herein on the following terms and measures which include among others the following namely:-
 - (a) The continued surrender of all documents belonging to the accused presently in the hands of the authorities.

- (b) That the accused remain within the confines of the capital Freetown - Sierra Leone under house arrest if need be where the accused will have easy and regular access to his Solicitor and Counsel for the preparation of his Defence both at the Pre-trial stage and the trial proper.
- (c) That the accused meet at least twice a week with the Police authorities who will maintain a log book and periodically file a written report confirming his presence on those occasions.
- (d) That the Police be allowed to make occasional, unannounced visits to the accused to check on him.
- (e) That the accused have no contact in any manner whatsoever with any person who may testify at his Trial proper.

Done in Freetown (OR Bonthe as the case may be).

BY THE COURT

Signed: Judge Bankole Thompson, President
Judge of the Trial Chamber.

DATED THE DAY OF 2003

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**SPECIAL COURT FOR SIERRA LEONE
FREETOWN-SIERRA LEONE**

Before: Judge Bankole Thompson
Designated Judge

Registrar: Robin Vincent

Date Filed: 2003.

THE PROSECUTOR

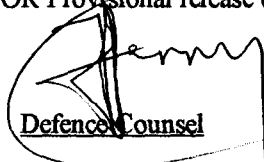
Against

Alex Tamba Brima also known as (aka) Tamba Alex Brima aka GULLIT

Case No. SCSL – 2003 – 06 – PT

RE: NOTIFICATION TO THE STATE OF THE REPUBLIC OF SIERRA LEONE

TAKE NOTICE THAT the State of the Republic of Sierra Leone has been notified through the Hon. Attorney-General and Minister of Justice of the Republic of Sierra Leone pursuant to Rule 65(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone for the purpose of its been heard on the question of the grant of Bail OR Provisional release of the accused the Applicant herein Tamba Alex Brima.


Defence Counsel
Terence Michael Terry

To:

- (1) The Registrar
Special Court for Sierra Leone
Jomo Kenyatta Road
New England
Freetown
- (2) The Office of the Prosecutor
Mr. David M. Crane
Mr. Jim Johnson
Mr. Nicholas Browne-Marke
Special Court for Sierra Leone
Spur Road Freetown
- (3) The Hon. Attorney-General & Minister of
Justice of the Republic of Sierra Leone
3rd Floor Guma Building
Lamina Sankoh Street
Freetown.

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28. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

This was adopted at the same time as the last Covenant, and entered into force on 23 March 1976; see General Assembly Resolution 2200A (XXI), UN doc. A/6316 (1966). For the text in various languages, see 999 UNTS 171; UK Treaty Series No. 6 (1977); Cmd. 6702.

With respect to inter-State complaints under the optional procedure provided for in Article 41, there is an overlap with the procedure under the European Convention on Human Rights, below. However, unlike its European counterpart, the Covenant provision has not so far been employed.

Generally, see Joseph, S., Schultz, J., & Castan, M., *The International Covenant on Civil and Political Rights, Cases, Materials, and Commentary* (2000); Nowak, M., *UN Covenant on Civil and Political Rights, CCPR Commentary* (1990); Opsahl, T. 'The Human Rights Committee,' in Alston, P. (ed.), *The United Nations and Human Rights* (1992), 369-443; Schwelb, E., 'Civil and Political Rights: The International Measures of Implementation', 62 *AJIL* 827-68 (1968).

TEXT

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

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2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under

international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

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Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;
(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
(c) For the purpose of this paragraph the term 'forced or compulsory labour' shall not include:
 - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
- * 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

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2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law

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and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by

universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in Article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with Article 34, the Secretary-General of the United Nations shall address a written invitation to the

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States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in Article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with Article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with Article 29 for the purpose of filling the vacancy.

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2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with Article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

(a) Twelve members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:

(a) Within one year of the entry into force of the present Covenant for the States Parties concerned;

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(b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- (a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;
- (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- (c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;
- (d) The Committee shall hold closed meetings when examining communications under this article;

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- (e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;
- (f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;
- (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
 - (i) If a solution within the terms of subparagraph (c) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - (ii) If a solution within the terms of subparagraph (c) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. (a) If a matter referred to the Committee in accordance with Article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They

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shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under Article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with Article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under Article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

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Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under Article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

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3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under Article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under Article 48;

(b) The date of the entry into force of the present Covenant under Article 49 and the date of the entry into force of any amendments under Article 51.

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Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in Article 48.

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29. OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

The Protocol entered into force on 23 March 1976. On the Human Rights Committee, see McGoldrick, D., *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights* (1991). For the jurisprudence and General Comments of the Committee, see <http://www.unhchr.ch>.

TEXT

The States Parties to the present Protocol,

Considering that in order further to achieve the purposes of the International Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,

Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

Article 2

Subject to the provisions of Article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of Article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

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2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.

2. The Committee shall not consider any communication from an individual unless it has ascertained that:

- (a) The same matter is not being examined under another procedure of international investigation or settlement;
- (b) The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meetings when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under Article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514(XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

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Article 9

Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under Article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under Article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in Article 48, paragraph 1, of the Covenant of the following particulars:

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- (a) Signatures, ratifications and accessions under Article 8;
 - (b) The date of the entry into force of the present Protocol under Article 9 and the date of the entry into force of any amendments under Article 11;
 - (c) Denunciations under Article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in Article 48 of the Covenant.

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30. SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1990

The second optional protocol, aiming at the abolition of the death penalty, was adopted by General Assembly Resolution 44/128, 15 December 1989, on a recorded vote of 59-26-48; UN doc. A/44/49 (1989); it entered into force on 11 July 1991.

Hood, R., *The Death Penalty: A World Wide Perspective* (2nd edn., 1996); Schabas, W. A., *The Abolition of the Death Penalty in International Law* (2nd edn., 1997).

TEXT

The States Parties to the present Protocol,

Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights,

Recalling Article 3 of the Universal Declaration of Human Rights, adopted on 10 December 1948, and Article 6 of the International Covenant on Civil and Political Rights, adopted on 16 December 1966,

Noting that Article 6 of the International Covenant on Civil and Political Rights refers to abolition of the death penalty in terms that strongly suggest that abolition is desirable,

Convinced that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life,

Desirous to undertake hereby an international commitment to abolish the death penalty,

Have agreed as follows:

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.
2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.
3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with Article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

Article 4

With respect to the States Parties to the Covenant that have made a declaration under Article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 5

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.
2. Without prejudice to the possibility of a reservation under Article 2 of the present Protocol, the right guaranteed in Article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under Article 4 of the Covenant.

Article 7

1. The present Protocol is open for signature by any State that has signed the Covenant.
2. The present Protocol is subject to ratification by any State that has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified the Covenant or acceded to it.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 8

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

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2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 9

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 10

The Secretary-General of the United Nations shall inform all States referred to in Article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Reservations, communications and notifications under Article 2 of the present Protocol;
- (b) Statements made under Articles 4 or 5 of the present Protocol;
- (c) Signatures, ratifications and accessions under Article 7 of the present Protocol;
- (d) The date of the entry into force of the present Protocol under Article 8 thereof.

Article 11

- 1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
- 2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in Article 48 of the Covenant.

5. DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, 1975

This Declaration is annexed to General Assembly Resolution 3452 (XXX), UN doc. A/10034 (1975), adopted by consensus on 9 December 1975. While General Assembly resolutions are not legislative in effect, they provide evidence of the evolution of principles of general international law. The Declaration annexed to the resolution constitutes evidence for the view that the prohibition of torture is an existing principle of international law: see the considerations in the preamble and note the terms of Article 2. On the relation between human rights and general international law, see the *Barcelona Traction Case*, ICJ Reports 1970, 3, at 32, and Brownlie, I., *Principles of Public International Law* (5th edn., 1998), 528-31.

Further reference should be made to Resolutions 3448 and 3453 adopted by the General Assembly on the same date; and to Resolution 31/85 adopted on 13 December 1976.

The adoption of the declaration was the prelude to the drafting of a Convention against torture (see further below). However, it must be emphasized that the Declaration is declaratory of existing legal norms. The prohibition of torture is enhanced by the appearance of the Convention but the legality of torture does not depend upon the existence of a Convention. The Resolution to which the Declaration is annexed refers to the 'obligation of States under the Charter'.

TEXT

Article 1

1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Article 2

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

Article 3

No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a

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threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 4

Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction.

Article 5

The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

Article 6

Each State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

Article 7

Each State shall ensure that all acts of torture as defined in Article 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

Article 8

Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned.

Article 9

Wherever there is reasonable ground to believe that an act of torture as defined in Article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

Article 10

If an investigation under Article 8 or Article 9 establishes that an act of torture as defined in Article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.

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Article 11

Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

Article 12

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

INDEX OF ATTACHMENTS -5

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Special Court for Sierra Leone (SCSL)

Deadline: 30 May 2003

SCSL

Call for Expression of Interest:

Construction of the SCSL Courthouse

The SCSL, an international criminal/war crimes tribunal with headquarters in Freetown, Sierra Leone created as a result of the United Nations Security Council Resolution 1315 dated 14 August 2000 expressing the international concern over the very serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone and at the then prevailing situation of impunity. The Special Court will be responsible for the prosecution of those people responsible for these serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.

In order to realize these objectives. The SCSL has undertaken the development of a large parcel of land in Freetown, Sierra Leone on which to construct the necessary facilities including office accommodation, a detention facility and a courthouse.

Phase I of the project addressed the office accommodation and the detention facility while Phase II will design and construct the SCSL Courthouse. As a result of an earlier Request for Proposal for the Design and Construction Supervision of the SCSL Courthouse, Norman + Dawbarn, a well known architectural firm was selected competitively to design this facility and a professional team is currently in the process of finalizing the design and preparing the tender documents necessary for the construction phases and the execution of the building work.

The SCSL is organizing a pre-qualification exercise to select general contractors who will be invited to submit cost proposals for the comprehensive execution of the building work. It should be noted that only pre-qualified general contractors will actually receive the Request for Proposals. The SCSL reserves the right to pre-select only those companies that it considers, at its absolute discretion, to be the most appropriate. The SCSL is the sole arbiter of any companies' suitability for inclusion in the short-list. Elements that may be taken into consideration include, but are not limited to the following: international experience, references showing successful completion of several construction projects valued at an amount in excess to USD three (3) million. The Request for Proposal will be in the English language. The objective is to commence the building work in Mid-July 2003 with an estimated completion date of November 2003.

The building volume has been estimated at approximately 1,800 m² which breaks down as follows:

Ground floor with two (2) Court Rooms, Public Galleries and support facilities:	1,042 m ² ;
• Public Control including security control:	358 m ² ;
• First Floor Judges Chambers, excluding service ducts:	160 m ² ;
• Basement Cells and secure lobbies:	82 m ² ;
• Basement Garage, control booth and remote witness video conferencing,:	81 m ² ;
• Main Engineering Plant area, :	118 m ² ;
• Total Gross Built Up Area:	1,842 m ² ;

All firms wishing to obtain a Questionnaire and participate in this pre-qualification process are encouraged to contact the SCSL at the following address:

Chief Procurement Officer
Special Court for Sierra Leone
Jomo Kenyetta Road, New England
Freetown, Sierra Leone

Tel: (39) 0831 23 6995 or (232) 22 29 59 95

Fax (39) 08 31 23 69 96 or (232) 22 2959 96

Email: scsl-procurement@un.org

Kindly note, the deadline for submitting Expression of Interest is Friday, 30 May 2003.